5–20–99
Vol. 64 No. 97
Pages 27445–27656

federal register

Thursday
May 20, 1999

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Program; Correction

AGENCY: Small Business Administration (SBA).

ACTION: Final rule; correction.

SUMMARY: SBA published in the **Federal Register** of January 13, 1999, a final rule concerning SBA's 7(a) and 504 loan programs. In that rule, SBA inadvertently omitted a phrase in its new § 120.131. This correction restores the omitted language.

DATES: Effective on May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Dowd, 202–205–6660.

SUPPLEMENTARY INFORMATION: SBA published in the **Federal Register** of January 13, 1999, a final rule regarding SBA's 7(a) and 504 loan programs. In that final rule, SBA inadvertently omitted a phrase in its new § 120.131, entitled ''Leasing part of new construction or existing building to another business.'' This correction restores the omitted language to that rule.

In the rule FR Doc. 99–559 published on January 13, 1999, (64 FR 2115) make the following correction. In the first column on page 2118, at the end of the first sentence of § 120.131(a), insert the phrase ''and will use all of the additional space within ten years'' before the period.

Dated: May 6, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–12574 Filed 5–19–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM154, Special Conditions No. 25–99–273–SC]

Special Conditions: Dornier Model 328–300 Airplane; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dornier Model 328–300 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These 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 April 15, 1999.

Comments must be received on or before July 6, 1999.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM–7), Docket No. NM154, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM154. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1503; 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 docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted 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. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM154.'' The postcard will be date stamped and returned to the commenter.

Background

On November 14, 1996, the Luftfahrt-Bundesamt (LBA) applied on behalf of Dornier Luftfahrt GmbH for an amendment to U.S. Type Certificate No. A45NM to include the new Dornier Model 328–300. The Model 328–300, which is a modification of the Dornier Model 328–100 approved under Type Certificate No. A45NM, will be a 32–34 passenger airplane with a pressurized cabin and a maximum takeoff weight of 33,510 pounds (15200 kg). The Model 328–300 is of a high-wing configuration, with twin turbofan engines mounted underneath the wings, and a horizontal tail mounted at the top of the vertical fin. The FAA subsequently determined that this airplane would require a new type certificate because the type of propulsion on this airplane is being changed from turboprop to turbofan.

The Dornier Model 328–300 incorporates an electronic flight instrument system (EFIS) for display of critical flight parameters (altitude, airspeed, and attitude) to the crew. These displays 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 21.17, Dornier Luftfahrt GmbH must show that the Model 328–300 airplane meets the applicable provisions of part 25 as amended by Amendments 1 through 87 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25, as amended) do not contain adequate or appropriate safety standards for the Dornier Model 328–300 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates 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

The Dornier 328–300 will incorporate an electronic flight instrument system (EFIS) that performs critical functions. This system may be vulnerable to HIRF external to the airplane.

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 electrical and electronic 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 applicable regulations, special conditions are needed for the Dornier 328–300, which require that new electrical and electronic systems, such as the EFIS, 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 paragraphs 1, OR 2 below:

1. A minimum threat of 100 volts per meter peak 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.

Frequency	Field strength (volts per meter)					
	US		UK/European		Consolidated	
	Peak	Average	Peak	Average	Peak	Average
10 kHz–100 kHz	30	30	50	50	50	50
100 kHz–500 kHz	40	30	60	60	60	60
500 kHz–2 MHz	30	30	70	70	70	70
2 MHz–30 MHz	190	190	200	200	200	200
30 MHz–70 MHz	20	20	30	30	30	30
70 MHz–100 MHz	20	20	30	30	30	30
100 MHz–200 MHz	30	30	150	30	150	30
200 MHz–400 MHz	30	30	70	70	70	70
400 MHz–700 MHz	80	80	700	40	700	80
700 MHz–1 GHz	690	240	1700	80	1700	240
1 GHz–2 GHz	970	70	5000	360	5000	360
2 GHz–4 GHz	1570	350	4500	360	4500	360
4 GHz–6 GHz	7200	300	5200	300	7200	300
6 GHz–8 GHz	130	80	2000	330	2000	330
8 GHz–12 GHz	2100	80	3500	270	3500	270
12 GHz–18 GHz	500	330	3500	180	3500	330
18 GHz–40 GHz	780	20	NA	NA	780	20

The field strengths are expressed in terms of peak root-mean-square (rms) values.

Applicability

As discussed above, these special conditions are applicable to Dornier 328–300 Model airplane. Should Dornier Luftfahrt GmbH apply 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 Dornier Model 328–300 airplanes. 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 procedure 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 immediately. Therefore, these special conditions are being made effective 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 Dornier Model 328–300 airplane.

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 external to the airplane.

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 April 15, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–12744 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. SW00S; Special Condition No. 27–00S–SC]

Special Conditions: Bell Helicopter Textron Canada Model 427 Helicopters, High Intensity Radiated Fields

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special condition; request for comments.

SUMMARY: This special condition is issued for Bell Helicopter Textron Canada (Bell) Model 427 helicopters. These helicopters will have a novel or unusual design feature associated with the installation of electronic systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards to protect systems that perform critical control functions, or provide critical displays, from the effects of high-intensity radiated fields (HIRF). This special condition contains the additional safety standards that the Administrator considers necessary to ensure that critical functions of systems will be maintained when exposed to HIRF.

DATES: The effective date of this special condition is May 11, 1999. Comments must be received on or before July 6, 1999.

ADDRESSES: Comments on this special condition may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket No. SW00S, Fort Worth, Texas 76193–0007, or deliver in duplicate to the Office of the Regional Counsel at 2601 Meacham Blvd., Fort Worth, Texas 76137. Comments must be marked: Rules Docket No. SW00S. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jorge Castillo, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110; telephone 817–222–5127, fax 817–222–5961.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, notice and opportunity for prior public comment are unnecessary since the substance of this special condition has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making this special condition effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special condition 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 this special condition must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Rules Docket No. SW00S.'' The postcard will be date stamped and returned to the commenter.

Background

On September 16, 1996, Bell applied for a type certificate for the Model 427 helicopter. The Bell Model 427 helicopter is a 6-passenger (8 including crew) normal category helicopter with a four-bladed rotor. It is powered by two Pratt and Whitney 206D engines with a gross weight of 6000 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Bell must show that the Model 427 helicopter meets the applicable provisions of the regulations as listed below:

- 14 CFR 21.29
- 14 CFR Part 27 as amended through and including amendment 27–31 and amendment 27–33
- 14 CFR Part 29 as amended through and including amendment 29–40, as it affects FAR Part 27 Appendix C
- The Amendments of 14 CFR Part 34 and Part 36 in effect on the day the Type Certificate is issued
- National Environmental Policy Act of 1969
- Noise Control Act of 1972

• Any Special conditions, Exemptions, and Equivalent Safety Findings deemed necessary

In addition, the certification basis includes certain special conditions and equivalent safety findings that are not relevant to this special condition.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters 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 Bell Model 427 helicopter must comply with the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Bell Model 427 helicopter will incorporate the following novel or unusual design features: Electrical, electronic, or a combination of electrical electronic (electrical/electronic) systems that perform critical control functions, or provide critical displays. Examples of such critical control functions and displays are electronic flight instruments that will be providing displays critical to the continued safe flight and landing of the helicopter during operation in Instrument Meteorological Conditions (IMC), and Full Authority Digital Engine Controls (FADEC) that will be performing engine control functions that are critical to the continued safe flight and landing of the helicopter during Visual Flight Rules (VFR) and Instrument Flight Rules (IFR) operations.

Discussion

The Bell Model 427 helicopter, at the time of application, was identified as incorporating one and possibly more electrical/electronic systems, such as electronic flight instruments and FADEC. After the design is finalized, Bell will provide the FAA with a preliminary hazard analysis that will identify any other critical functions that are performed by the electrical/electronic systems, and are required for safe flight and landing.

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical/electronic systems that perform critical control functions, or provide critical displays. These advanced systems respond to the transient effects of induced electrical current and voltage caused by HIRF incidents on the external surface of the helicopter. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of § 27.1309(a). Higher energy levels radiate from operational transmitters currently used for radar, radio, and television. Also, the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of the technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the electrical/electronic systems required for the continued safe flight and landing of the helicopter. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF will be provided by the design and installation of these systems. The following primary factors contributed to the current conditions: (1) increased use of sensitive electronics that perform critical functions, (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials, (3) adverse service experience of military aircraft using these technologies, and (4) an increase in the number and power of radio frequency emitters and the expected increase in the future.

The FAA recognizes the need for aircraft certification standards to keep pace with the developments in technology and environment and, in 1986, initiated a high priority program to (1) determine and define electromagnetic energy levels; (2) develop and describe guidance material for design, test, and analysis; and (3) prescribe and promulgate regulatory standards.

The FAA participated with industry and airworthiness authorities of other countries to develop internationally recognized standards for certification.

The FAA and airworthiness authorities of other countries have identified two levels of the HIRF environment that a helicopter could be exposed to—one environment for Visual Flight Rules (VFR) operations and a different environment for Instrument Flight Rules (IFR) operations. While the HIRF rulemaking requirements are being finalized, the FAA is adopting a special condition for the certification of aircraft that employ electrical/electronic systems that perform critical control functions, or provides critical displays. The accepted maximum energy levels that civilian helicopter system installations must withstand for safe operation are based on surveys and analysis of existing radio frequency emitters. This special condition will require the helicopters' electrical/electronic systems and associated wiring to be protected from these energy levels. These external threat levels are believed to represent the exposure for a helicopter operating under VFR or IFR.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to HIRF. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the radiated fields.

This special condition will require the systems that perform critical control functions or provide critical displays, as installed in the aircraft, to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests. Control system failures and malfunctions can more directly and abruptly contribute to a catastrophic event than display system failures and malfunctions. Therefore, it is considered appropriate to require more rigorous HIRF verification methods for critical control systems than for critical display systems.

The applicant may demonstrate that the operation and operational capabilities of the installed electrical/electronic systems that perform critical

functions are not adversely affected when the aircraft is exposed to the defined HIRF test environment. The FAA has determined that the test environment defined in Table 1 is acceptable for critical control functions in helicopters. The test environment defined in Table 2 is acceptable for critical display systems in helicopters.

The applicant may also demonstrate by a laboratory test that the electrical/electronic systems that perform critical control functions or provide critical displays can withstand a peak electromagnetic field strength in a frequency range of 10 KHz to 18 GHz. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 100 volts per meter (v/m) is appropriate for critical display systems. A level of 200 v/m is appropriate for critical control functions. Laboratory test levels are defined according to RTCA/DO–160D Section 20 Category W (100 v/m and 150 mA) and Category Y (200 v/m and 300 mA). As defined in DO–160D Section 20, the test levels are defined as the peak of the root means squared (rms) envelope. As a minimum, the modulations required for RTCA/DO–160D Section 20 Categories W and Y will be used. Other modulations should be selected as the signal most likely to disrupt the operation of the system under test, based on its design characteristics. For example, flight control systems may be susceptible to 3 Hz square wave modulation while the video signals for electronic display systems may be susceptible to 400 Hz sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80 percent depth of modulation in the frequency range from 10 KHz to 400 MHz, and 1 KHz square wave with greater than 90 percent depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Applicants must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to or cause an unsafe condition that would prevent the continued safe flight and landing of the helicopters. The systems identified by the hazard analysis as performing critical functions are required to have HIRF protection. A system may perform both critical and non-critical functions. Primary electronic flight display systems and their associated components perform critical functions such as attitude, altitude, and airspeed indications. HIRF requirements would apply only to the systems that perform critical functions, including control and display.

Acceptable system performance would be attained by demonstrating that the critical function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case-by-case basis.

TABLE 1.—VFR ROTORCRAFT FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	150	150
100–500	200	200
500–2000	200	200
2–30 MHz	200	200
30–100	200	200
100–200	200	200
200–400	200	200
400–700	730	200
700–1000	1400	240
1–2 GHz	5000	250
2–4	6000	490
4–6	7200	400
6–8	1100	170
8–12	5000	330
12–18	2000	330
18–40	1000	420

TABLE 2.—IFR ROTORCRAFT FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	50	50
100–500	50	50
500–2000	50	50
2–30 MHz	100	100
30–70	50	50
70–100	50	50
100–200	100	100
200–400	100	100
400–700	700	50
700–1000	700	100
1–2 GHz	2000	200
2–4	3000	200
4–6	3000	200
6–8	1000	200
8–12	3000	300
12–18	2000	200
18–40	600	200

Applicability

As previously discussed, this special condition is applicable to Bell Model 427 helicopters. Should Bell apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special condition 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 one model series of helicopters. 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 helicopter.

The substance of this special condition 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 helicopter, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting this special condition 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 27

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for these special conditions is as follows: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for Bell Helicopter Textron Canada Model 427 helicopters.

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on May 11, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–12743 Filed 5–19–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[IL–64–2–5807; FRL–6345–7]

RIN 2060–AF29

National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for ferroalloys production: ferromanganese and silicomanganese. This rule was proposed under the title of ''national emission standards for hazardous air pollutants for ferroalloys production.'' The EPA changed the title of the final rule to reflect the specific ferroalloy produced (ferromanganese and silicomanganese) at the only existing source to be regulated. The EPA also has deleted the proposed applicability to ferrochromium production with this action and withdrawn the proposed rule for ferronickel production facilities.

The EPA has identified ferromanganese and silicomanganese facilities as major sources of hazardous air pollutants (HAP) emissions of manganese. Manganese can adversely affect human health. The effects of chronic human exposure to environmental levels of manganese through inhalation include subtle but not insignificant effects on the central nervous system. These effects, reported in workers exposed to manganese, include slow visual reaction time, loss of eye-hand coordination, and imprecise hand movements caused by small tremors. The NESHAP requires affected sources to meet emission standards that reflect the application of maximum achievable control technology (MACT).

DATES: *Effective Date.* The final rule is effective May 20, 1999.

Judicial Review. Under Clean Air Act section 307(b), judicial review of this nationally applicable final action is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of publication of this rule. Under section 307(b)(2), the regulations that are the subject of this action may not be challenged later in civil or criminal proceedings brought by EPA in reliance on them.

ADDRESSES: *Docket.* All information considered by the EPA in developing this rulemaking, including public comments on the proposed rule and other information developed by the EPA in addressing those comments since proposal, is located in Public Docket No. A–92–59 at the following address: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:00 a.m. to 5:30 p.m., Monday through Friday. Materials related to this rulemaking are available upon request from the Air and Radiation Docket and Information Center by calling (202) 260–7548 or 7549. The FAX number for the Center is (202) 260–4400. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad Chin, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–1512; facsimile (919) 541–5600, electronic mail address ''chin.conrad@epamail.epa.gov'.

SUPPLEMENTARY INFORMATION:

Regulated Entities

This action regulates entities that are industrial facilities producing ferromanganese or silicomanganese. Regulated categories and entities include those sources listed in the following primary Standard Industrial Classification code: 3313, Electrometallurgical Products, Except Steel.

This description provides a guide for readers regarding entities regulated by this final action. It lists the types of entities that the EPA is aware of that would be regulated. To determine whether a facility is regulated, the owner or operator should examine the applicability criteria in § 63.1650 of the rule. At this time, the EPA knows of only one facility (the Elkem Metals Company plant in Marietta, Ohio) that is subject to the final rule. Direct questions regarding the applicability of this action to a particular entity should be directed to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section or the relevant permitting authority.

Electronic Access

This document, the regulatory text, and other background information are available in Docket No. A–92–59, by request from the EPA's Air and Radiation Docket and Information Center (see **ADDRESSES**), or through the EPA web site at: http://www.epa.gov/ttn/oarpg.

Preamble Outline

The information presented in this preamble is organized as follows:

I. Background
- A. What is the statutory and regulatory authority for the final rule?
- B. What are the benefits and costs of the final rule?
- C. How did the public participate in developing the rule?

II. Summary of Final Rule

III. Significant Comments and Changes to the Proposed Rule
- A. Should the EPA finalize the proposed ferronickel rule?
- B. Does the final rule regulate ferrochromium production?
- C. Is the format for the proposed furnace standards appropriate?
- D. Should the EPA set separate standards for each furnace?
- E. Should the EPA change its technical approach for selecting the numerical emissions standards for submerged arc furnaces?
- F. What are the final standards for existing furnaces?
- G. What are the final standards for new or reconstructed furnaces?
- H. What are the final standards for new or reconstructed metal oxygen reduction processes?
- I. How is the scrubber pressure drop operating parameter value to be determined?
- J. What are the final monitoring requirements for baghouses?
- K. How were performance testing issues raised in the public comments resolved?

IV. Administrative Requirements
- A. Docket
- B. Executive Order 12866
- C. Executive Order 12875
- D. Executive Order 13084
- E. Unfunded Mandates Reform Act
- F. Regulatory Flexibility Act
- G. Paperwork Reduction Act
- H. Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045
- I. National Technology Transfer and Advancement Act
- J. Congressional Review Act

I. Background

A. What Is the Statutory and Regulatory Authority for the Final Rule?

Section 112 of the Clean Air Act (Act) requires that the EPA promulgate regulations to control HAP emissions

from major and area sources. The control of HAP is achieved through promulgation of emission standards under section 112(d) and (f) and operational and work practice standards under section 112(h) for categories of sources that emit HAP.

The statutory authority for this action is provided by sections 101, 112, 114, 116, and 301 of the Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, and 7601).

B. What Are the Benefits and Costs of the Final Rule?

The final rule is expected to apply to only one facility, the Elkem Metals Company plant in Marietta, Ohio (Elkem). The following discussion of environmental, energy, and economic impacts is limited to this facility. No new facilities are anticipated.

The EPA believes that the final standards will have the primary effect of codifying existing control equipment and practices. Therefore, no additional emission control equipment would be required to comply with the final standards, and no significant emission reduction or other environmental impacts are anticipated to result from this rulemaking.

Cost and economic impacts are expected to be minimal. The only costs associated with the final standards are those required to perform compliance assurance activities such as performance testing, monitoring, reporting, and recordkeeping. However, these costs are minor compared to costs already incurred by the facility in meeting its permit obligations for criteria pollutants. Section IV.F. of this preamble addresses the burden associated with recordkeeping and reporting.

C. How Did the Public Participate in Developing the Rule?

Prior to proposal, the EPA met with industry representatives and State regulatory authorities several times to discuss the data and information used to develop the proposed standards. In addition, these and other potential stakeholders, including equipment vendors and environmental groups, had opportunity to comment on the proposed standards.

The proposed standards were published in the **Federal Register** on August 4, 1998 (63 FR 41508). The preamble to the proposed standards discussed the availability of technical support documents, which described in detail the information gathered during the standards development process. Public comments were solicited at proposal.

The EPA provided interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards in a public hearing. However, no member of the public requested to speak at a hearing, so none was held.

The original public comment period ended on October 5, 1998. However, at the request of the only affected facility, the EPA extended the comment period to November 4, 1998 (63 FR 54646). During the comment period, the EPA received four comment letters on the proposed standards. In the post-proposal period, the EPA talked with commenters and other stakeholders to clarify comments and to assist in the EPA's analysis of the comments. Records of these contacts are found in the final rulemaking docket. All of the comments have been carefully considered, and, where appropriate, changes have been made in the final standards.

In a separate action, the EPA proposed supplemental requirements (64 FR 7149) on February 12, 1999, to modify the use of bag leak detection systems in rules proposed for the source categories of ferroalloys production, mineral wool production, primary lead smelting, and wool fiberglass manufacturing. The public comment period on the supplemental requirements ended on March 15, 1999, and four letters were received. The EPA considered these comments in preparing the final ferroalloys regulation.

II. Summary of Final Rule

The NESHAP will apply to new and existing ferroalloy production facilities that manufacture ferromanganese and silicomanganese and are major sources of HAP emissions or are co-located at major sources of HAP emissions. The following HAP emission sources at a ferroalloy production facility will be affected by the rule:

- Submerged arc furnaces
- Metal oxygen refining (MOR) process
- Crushing and screening operations
- Fugitive dust sources.

The rule contains emission standards that limit particulate matter emissions from existing and new or reconstructed emission sources. The limits for the submerged arc furnaces depend on the product produced and furnace design. The rule also sets limits for the air pollution control devices associated with the MOR process and crushing and screening operations. The following table summarizes the emission standards, by process.

EMISSION STANDARDS

New or reconstructed or existing source	Affected source	Applicable particulate matter emission standards
New or reconstructed	Submerged arc furnace (primary and tapping)	1. 0.23 kg/hr/MW (0.51 lb/hr/MW), or 2. 35 mg/dscm (0.015 gr/dscf).
Existing	Open submerged arc furnace (primary and tapping).	1. 16.3 kg/hr (35.9 lb/hr) when producing silicomanganese. 2. 6.4 kg/hr (14.0 lb/hr) when producing ferromanganese.
Existing	Semi-sealed submerged arc furnace (primary, tapping, and vent stacks).	11.2 kg/hr (24.7 lb/hr).
New, reconstructed, or existing	MOR process	69 mg/dscm (0.03 gr/dscf).
New or reconstructed	Individual equipment associated with the crushing and screening operation.	50 mg/dscm (0.022 gr/dscf).
Existing	Individual equipment associated with the crushing and screening operation.	69 mg/dscm (0.03 gr/dscf).

The final standard establishes an opacity limit on the shop buildings housing one or more of the submerged arc furnaces. The shop building opacity limit addresses furnace process fugitive emissions that escape capture by the furnace hood and ventilation equipment.

The final standards impose a duty on the owner or operator to prepare and operate according to a fugitive dust control plan that describes the measures that will be put in place to control fugitive dust sources. This duty to operate will be incorporated into the facility's operating permit issued by the designated permitting authority under 40 CFR part 70.

Proper maintenance of emission sources and air pollution control devices to minimize HAP emissions is an essential component of the final standards. In addition to satisfying the maintenance requirements imposed by the part 63 General Provisions, owners and operators must develop and implement a written maintenance plan for each air pollution control device. The procedures specified in the maintenance plan shall include a preventive maintenance schedule that is consistent with good air pollution control practices for minimizing emissions.

Finally, the owner or operator must also perform monthly inspections of the equipment that is important to the performance of the furnace capture systems.

The rule also contains detailed compliance provisions that establish compliance dates, as well as provisions for performance testing, monitoring, recordkeeping, and reporting.

III. Significant Comments and Changes to the Proposed Rule

Following is a discussion of the significant comments received on the proposed rule and the resulting changes in the final rule. The document, ''Technical Document for Promulgation of Standards: Ferromanganese and Silicomanganese NESHAP Comment and Response Summary'' is available in the docket and contains a detailed summary of all of the comments and responses. This document is also available on the EPA's web site (http://www.epa.gov/ttn/oarpg) and from the person listed in the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this notice.

In addition to changes resulting from the consideration of significant comments, the EPA made several clarifying and formatting changes to the final regulation. For example, the compliance demonstration section was restructured to clarify requirements and improve its readability. The requirements for fugitive dust control measures were condensed to essential requirements. None of these changes were substantive.

A. Should the EPA Finalize the Proposed Ferronickel Rule?

When the proposed rule was published in August 1998, the only existing facility in the United States producing ferronickel (Glenbrook Nickel Company) had suspended operations. Since then, the company has said they will permanently close the facility. The EPA has decided to exercise its authority to withdraw the proposed rule because there is no major source currently operating or expected to begin operating that would emit the HAP associated with ferronickel production. Should a new major source of ferronickel production commence operation after promulgation, the EPA will evaluate at that time how and whether to set a MACT standard.

B. Does the Final Rule Regulate Ferrochromium Production?

The EPA included ferrochromium production at proposal because of provisions contained in Elkem's State operating permit which provides for the possibility of converting one or more furnaces to ferrochromium production.

The commenters argued that using the same limits for ferrochromium production as those established for ferromanganese or silicomanganese is technically unjustified. Ferrochromium production operates at much higher furnace loads and temperatures and, consequently, has a higher emission potential than other alloys. Upon reexamination, the EPA agrees that it should not assume that limits developed for ferromanganese or silicomanganese production are appropriate for ferrochromium production.

In deciding whether to withdraw ferrochromium production from the rule, the EPA considered the likelihood that an affected source would convert an existing furnace to produce ferrochromium. A primary consideration was the recent closure of the only domestic producer of ferrochromium due to poor market conditions and price competition from imports. The EPA thinks it unlikely that an affected source would start producing ferrochromium under these conditions. Therefore, the EPA has withdrawn ferrochromium production from the final rule. Should an affected source convert to ferrochromium production or a new source commence operation after promulgation, the EPA will evaluate at that time how and whether to set MACT standards for ferrochromium production.

C. Is the Format for the Proposed Furnace Standards Appropriate?

One commenter disagreed with the proposed format of the furnace standards, which is in units of ''kilograms per hour per megawatt (kg/hr/MW) (pounds per hour per megawatt [lb/hr/MW]).'' The commenter agreed that production is a function of power consumption, but stated that existing data show emissions from furnaces are not solely a function of furnace load. Instead, several other factors affect emissions. For example, when furnace operations are ''rough,'' steps to decrease the load may result in increased emissions. Furthermore, the variability of furnace operations and emissions is demonstrated in the statistical variability of the stack test data.

In considering this comment, the EPA reviewed the data supplied by the commenter and conducted a linear regression analysis of the emission test data for furnaces #1 and #12 to evaluate the strength of the correlation between power input and scrubber emissions. The calculated correlation coefficients were 0.03 and 0.08, far from the perfect correlation indicated by a value of one. These results clearly show that there is no significant correlation between emissions and power input. Therefore, the EPA has changed the format of the standard for existing furnaces to a straight mass rate basis, kilograms per hour (kg/hr) (pounds per hour [lb/hr]).

D. Should the EPA Set Separate Standards for Each Furnace?

One commenter asked EPA to set separate standards for furnaces #1 and #12, because the products and operating conditions differ. High carbon ferromanganese is made from a blend of coke and ore, plus some recycled materials. Under ideal conditions, the operation is relatively quiet with only light flaming and fuming at the top of the furnace. In contrast, silicomanganese is produced from a variety of slags, scrap products, metallics, low grade ores, and cokes. Silicomanganese operates at a higher power load, has hotter and more open top conditions, and emits considerably more fume. Based on a statistical analysis, the commenter claimed that there is a statistically significant difference in mean emission levels between the two furnaces.

Based on a thorough review of the data submitted by the commenter, the EPA agrees the data demonstrate substantially lower emissions from furnace #12 than from furnace #1. Although both furnaces are of the same

open design, furnace #1 typically produces silicomanganese, while furnace #12 produces ferromanganese. This difference, combined with the change in format of the standard, leads the EPA to establish separate standards for each furnace.

E. Should the EPA Change Its Technical Approach for Selecting the Numerical Emission Standards for Submerged Arc Furnaces?

As described below, the EPA reevaluated the data base used to select the numerical emission standards for submerged arc furnaces. However, the EPA maintained its overall technical approach of setting the limits based on the performance achieved by the individual furnaces.

Use of upper prediction limits. Commenters disagreed with EPA's technical approach to evaluating test data for use in setting MACT. They proposed that EPA should set emission standards that account for the natural variability of the operations. In particular, the EPA should use prediction limits to calculate an upper limit on the observations to be expected during future performance tests. The commenters evaluated the false positive rates (FPR) expected from the proposed standards and compared the effect on the FPR to the EPA standard and the existing Ohio permit emission limits. The FPR, or significance level of a statistical test, is the probability of finding an exceedance when, in fact, there has been no systematic change in the process generating the observations. The commenter distinguished between the per-comparison FPR (the chance of one or more exceedances at any single monitoring location) and the facility-wide FPR (the chance of one or more exceedances at the whole facility.) The commenter calculated FPR well in excess of the desired rates (at least for furnaces #1 and #18), resulting in approximately a 41 percent or 51 percent probability of an exceedance at one or more monitoring locations during each event.

The EPA disagrees with the commenter's proposed approach to setting the MACT standards for furnace primary and tapping emissions. Instead, the appropriate way to set these standards is to rely on the results of performance testing, which in turn establish compliance criteria in the form of emission limits. These compliance criteria establish an expectation for the operation and maintenance parameters needed to ensure that the source continues to meet the required emission limits. Subsequent performance tests are a measure of the owner or operator's ability to operate and maintain the affected air pollution control device and associated emission sources such that the emission limit is maintained. The required maintenance and monitoring of the control device and associated parameters contribute to assurances that standards are met between the required performance tests.

The sources cited by the commenter justifying statistical techniques to establish FPR (or upper prediction limits) are based on frequent monitoring of numerous events. However, the data base supporting selection of the MACT standards, while considered relatively extensive from a MACT standard-setting perspective, is limited to a handful of annual events. The commenter's proposed methodology would ''penalize'' the much smaller MACT data base, because it would take a much larger sample size to achieve the suggested proposed FPR. A mitigating factor to the relatively small sample size of the MACT approach is based on the fact that source testing is a relatively infrequent, but planned, occurrence. Prior to conducting the test, the source should take steps to ensure maximum performance of the control device, so long as ''representative'' operating conditions are maintained. By taking these steps, the owner or operator is expected to exert significant control over the outcome of the test.

The EPA also disagrees with the commenter's assertion that the standards should be set such that exceedances at any point in the facility are avoided. The intent of setting individual standards is to ensure that each emission source and its associated air pollution control device are operated and maintained so that the emission standard is met.

The above language does not prevent EPA from using statistical and other relevant information to verify the validity or reasonableness of standards it may set. As discussed in section III.F., the EPA considered the possibility of excessive exceedances in establishing the final emission limits.

Data excluded from the analysis. One commenter said EPA both incorrectly excluded certain test data from its analyses and included other data. As suggested by the commenter, the EPA reviewed the data that were included in the analysis and the basis for the exclusion of any data points. The EPA also performed a quality assurance check of the data set. In a few cases, the EPA identified discrepancies in the emissions data submitted by the commenter. Where indicated, these data were corrected. The final data set used by EPA is in the comment summary and response document referenced at the beginning of section III.

As a first step in reanalyzing the data, the EPA considered whether there were any statistical outliers in the data set. The EPA identified the April 1997 test on the furnace #1 scrubber and run 1 of the November 1992 test on furnace #12 as statistical outliers using procedures in American Society for Testing and Materials Designation E 178–94, Standard Practice for Dealing with Outlying Observations. Consistent with the approach recommended by the commenter, these data were excluded from further consideration.

The EPA also excluded the November 1994 test on the furnace #18 vent stacks, because every run exceeded the State emission limit for the entire furnace. In addition, the statistical analysis identified these results as outliers.

F. What Are the Final Standards for Existing Furnaces?

One commenter suggested the following alternatives to EPA's proposed emission limits for existing furnaces:

- Revise emission limits based on a parametric data analysis.
- Replace limits with equipment standards or work practice requirements.
- Use existing State emission limits.

Parametric data analysis. The commenter recommended that EPA compute the required emission standards using the 99-percent upper prediction limits based on the available emissions test data and suggested numerical limits. With the change in format, the specific limits suggested by the commenter are no longer relevant. The EPA also has decided to issue separate regulations for furnaces #1 and #12. However, the EPA did consider comments regarding the overall approach used to establish emission limits.

As discussed in section III.E., the EPA does not believe that using statistical analyses to set MACT standards is appropriate. Instead, in cases where there are ample emissions tests data on specific air pollution control devices, as in this case, the EPA has historically set emission limits based on the highest valid data point recorded under representative and normal operating conditions. This approach is consistent with the approach taken at proposal.

The performance test data consist of compliance tests for particulate matter standards that were conducted for the State of Ohio over a 6-year period. The final data set, adjusted for outliers and out-of-compliance tests, includes six tests of the furnace #1 scrubber, seven

tests of the furnace #1 baghouse, seven tests of the furnace #12 scrubber, six tests of the furnace #18 scrubber, and four tests of the furnace #18 vent stacks.

The MACT for this industry (and source) is the level of performance achieved by the existing control equipment. In order to set the emission limit, the EPA considered the highest valid test results obtained for each furnace. Then, the EPA adjusted these results upward slightly (approximately 7.5 percent) to account for measurement error and other variabilities inherent in the test procedure. Next, the EPA compared these results to the existing State permit limits and the 90-percent upper prediction limit, as indicators of the source's ability to achieve the final adjusted results.

For furnaces #1 and #12, the analysis shows that the adjusted test results reflect these furnaces' ability to meet the limits on an on-going basis. Coincidentally, these limits also are comparable to the existing State permit limits. Based on this analysis, the EPA decided to set the emission limits for furnace #1 at 16.3 kg/hr (35.9 lb/hr) and for furnace #18 at 11.2 kg/hr (24.7 lb/hr). This approach results in numerical standards that are consistent with the available data and minimizes the disruption of existing permit conditions.

The adjusted data for furnace #12 reflect this furnace's ability to meet the limit on an on-going basis. In this case, however, the existing permit limit does not coincide with the available test data. Based on this analysis, the EPA has decided to finalize the emission limit for furnace #12 at 6.4 kg/hr (14.0 lb/hr). The data support this limit, which is achievable with the existing control device.

Existing Ohio permit limits. As an alternative to establishing different emission limits, one commenter said EPA should consider Ohio's use of a process weight rate approach to establishing emission limits. Two commenters noted that Elkem has developed control equipment and technology over the years to comply with the Ohio EPA allowable emission limits. Considering the variability of furnace operations, EPA's proposal to reduce these allowable emissions would position Elkem to potentially fail compliance tests in the future.

The EPA considered these limits in evaluating the reasonableness of the final standards. Where the State limits coincided with the limits suggested by EPA's analysis of the test data, they were considered in setting the level of the final standards. However, where the limits did not coincide, EPA set the final standards based on analysis of the test data alone.

Equipment or work practice standard. Two commenters argued that since EPA already accepts the Elkem existing control devices as representative of the MACT floor and because there are no other existing facilities, there is no reason to specify emission limits for existing Elkem operations. One commenter stated that EPA should establish equipment standards or work practice standards in place of further numerical emission limits.

Equipment or work practice standards are not appropriate in this case, because the Act precludes the establishment of non-numerical emission standards when the EPA has data and test methods on which to base and enforce a numerical limit. Specifically, section 112(h) says the Administrator can promulgate a design, equipment, work practice, operational standards, or combination thereof, only if it is not feasible to prescribe or enforce an emission standard. ''Not feasible'' means that the source cannot meet either of the following criteria:

- The HAP cannot be emitted through a conveyance designed and constructed to emit or capture the HAP or the requirement for such a conveyance would be inconsistent with existing law.
- Emissions from the source cannot be measured practicably due to technological or economic limitations.

Given that Elkem already complies with emission standards on the furnaces and that it is possible to test them, the EPA must issue emission standards.

G. What Are the Final Standards for New or Reconstructed Furnaces?

Based on the following discussion, the EPA added an alternative standard of 35 milligrams per dry standard cubic meter (mg/dscm), 0.15 grain per dry standard cubic foot (gr/dscf), to the final rule based on the expected use of baghouse technology on any new or reconstructed open furnaces. The EPA also retained the proposed standard of 0.23 kg/hr/MW (0.51 lb/hr/MW) based on the new source performance standards (NSPS) limit.

One commenter said the MACT requirements for new and reconstructed facilities should be more stringent than proposed due to the levels of particulate matter control technology available today. The commenter noted that baghouses have been applied in a wide range of industrial process applications, some of which are similar to ferromanganese and silicomanganese production, with the actual achievable particulate matter and opacity levels well below the proposed levels.

Other commenters said adopting the NSPS limit for new or reconstructed furnaces is not appropriate for the NESHAP. They said because no one has built an NSPS furnace producing ferromanganese, silicomanganese, or ferrochromium since the NSPS were promulgated, there is no technological basis to either demonstrate or dispute the level of the NSPS.

One commenter added that the NSPS emission limits may not be achievable for a new or reconstructed furnace, because the limits are over 25 years old and were based on the assumption that sealed furnaces would be the norm in the ferromanganese smelting industry. However, because of safety issues, the industry now believes that open furnaces represent the technology of choice. The commenter stated that a baghouse would be required to meet the new source standard for a new open furnace.

The commenter also noted that the format of the NSPS, which assumes a correlation between furnace load and emissions, is inconsistent with the data showing a lack of correlation between the two factors.

The NSPS format, kg/hr/MW (lb/hr/MW), offers a significant advantage for new sources, because it can be applied to a range of furnace sizes. In contrast, the NESHAP format, kg/hr (lb/hr), would result in a production cap on new furnaces, because this format makes no allowance for differences in production capacity. While this is acceptable in the case of known, existing furnaces, it is not acceptable for new furnaces. Because the NSPS will apply to new or reconstructed furnaces in any case, and to provide needed flexibility in the NESHAP, the final rule will retain as an option the NSPS format for emission standards.

In addition, recognizing that new or reconstructed open furnaces would likely be controlled with baghouse technology and to provide additional flexibility, the EPA added an alternate concentration standard based on expected levels of baghouse performance. The alternate limit, 35 mg/dscm (0.15 gr/dscf), is based on the maximum level of performance achieved by baghouses tested in 1993 and 1994 on open ferroalloy furnaces producing a variety of products. This level is also consistent with baghouse performance data on the #1 furnace tapping baghouse at Elkem. Because baghouses are characteristically constant outlet devices, this level of performance should be achievable with ferromanganese and silicomanganese production.

H. What Are the Final Standards for New or Reconstructed Metal Oxygen Reduction Processes?

The proposed limit was based on the premise that the NSPS limit for basic oxygen furnaces (BOF) was a reasonable surrogate for a new or reconstructed MOR process. Upon reexamination, the EPA decided that the technology transfer basis for the proposed limit was inappropriate given the differences in the MOR process and its emissions potential compared to the BOF process and its emission potential. Therefore, the final standard will be set at 69 mg/dscm (0.03 gr/dscf), which is consistent with the allowable concentration for existing sources.

The process differences were documented by a commenter who noted that while both processes remove carbon from a molten metal by oxidizing it with oxygen and forming carbon monoxide gas, there are distinct differences in the chemistry between manganese in the MOR process and iron in the BOF process. The commenter noted that the main differences are the higher operating temperature of the MOR, the higher volatility of manganese, and the higher carbon content of the manganese metal being treated. According to the commenter, these differences result in an estimated 10 times more fume generation during the MOR process compared to a BOF process. Therefore, baghouse emission reduction performance for an MOR process would likely be different than that for a BOF process.

I. How Is the Scrubber Pressure Drop Operating Parameter Value To Be Determined?

When a scrubber is used, the proposed rule required the owner or operator to establish an operating parameter value based on pressure drop to ensure ongoing compliance with the required emission limit. The commenter requested that EPA allow more flexibility in establishing the parameter value. In particular, the commenter requested that the source be allowed to establish the limit based on the average pressure drop obtained during any single complying run in any complying emission test. The EPA agrees there should be more flexibility in how the source sets the operating parameter value during a complying emission test. Therefore, the final rule contains a requirement that the operating parameter monitoring value will be set based on the lowest average pressure drop on any individual complying run in the three runs constituting any compliant test.

J. What Are the Final Monitoring Requirements for Baghouses?

One commenter requested changes in the frequency and intent of the requirements to ensure proper operation and maintenance of baghouses. The EPA clarified the requirements where needed.

One commenter also questioned the need to install bag leak detection systems on baghouses controlling new or reconstructed furnaces given the other monitoring requirements already in place. The EPA believes that baghouse leak detection represents state-of-the-art compliance assurance for baghouses, and plans to implement it in all new source MACT standards, where it is applicable, and, in most cases, to existing source standards as well.

In a separate action, (64 FR 7149, February 12, 1999) the EPA proposed supplemental requirements to modify the use of bag leak detection systems in rules proposed for the source categories of ferroalloys production, mineral wool production, primary lead smelting, and wool fiberglass manufacturing. The overall goal of the requirements was to add an enforceable operating limit if the alarm on the bag leak detection system sounds for more than 5 percent of the total operating time in each 6-month period. Adding this requirement would provide greater assurance that the baghouse would be properly operated and maintained, and that the emission limit would be met. The supplemental notice also proposed that owners and operators would be required to continuously record bag leak detection system output to ensure that data necessary to assess compliance with the newly proposed operating limit for bag leak detection system alarms would be available. In the absence of such information, enforcement personnel would be unable to determine whether the operating limit is being met. The output records would also provide data necessary to assess the magnitude of the output level above the alarm set point, and would assist owners and operators in properly operating and maintaining the baghouse and in diagnosing baghouse upsets.

The EPA requested public comment on these requirements as part of the supplemental notice. The comments and EPA's responses, are described in the Technical Document for Promulgation of Standards. There were no comments resulting in significant changes to the proposed requirements. Therefore, with this final rule, the EPA is finalizing the operational limits for bag leak detection systems. In addition, the EPA has also added definitions and compliance, monitoring, reporting, and recordkeeping requirements to clarify and implement the operational standards. These are not substantive additions and are consistent with language in the other rules affected by the supplemental notice.

K. How Were Performance Testing Issues Raised in the Public Comments Resolved?

Commenters raised several issues regarding testing-related terms and requirements. The EPA has clarified these in the final rule. In particular, the EPA clarified the definition of tapping period and resolved an inconsistency in the sampling time requirements. The EPA also revised the rule to require sources to include a tapping period, or at least 20 minutes of a tapping period, in a minimum of two test runs. This change, reduced from a requirement to include a tapping period in each of three runs, is consistent with the source's existing permit conditions and with how previous performance data were obtained.

One commenter objected to the use of Method 5D for positive pressure baghouses that are not equipped with outlet stacks. They stated that this method requires cutting off the flow of air through the baghouse, thereby creating a fire hazard. They suggested that visual emission observations beyond the ridge vent/roof monitor will adequately demonstrate compliance with emissions limits for this type of baghouse.

As stated in the proposal preamble, the EPA proposed changes to Method 5D to address safety and other practicality issues (62 FR 45369, August 27, 1997). In particular, the amendments would revise the outlet volumetric flow rate calculation procedure to be used in those cases where the gas velocity at the baghouse outlet is too low to be measured accurately. The change will allow for the calculation of outlet gas flow rate based on the difference between the baghouse gas inlet and outlet temperatures and a direct measurement of the gas inlet flow rate. The EPA expects the final amendments to be published in the **Federal Register** by mid-summer of this year, well before performance testing under the rule would need to be conducted. A copy of the proposed amendments is available on the Emission Measurement Center (EMC) home page (http://www.epa.gov/ttn/emc) by choosing ''methods,'' then ''proposed,'' then ''EPA Methods (New EMMC Format).''

IV. Administrative Requirements

A. Docket

This final rulemaking action is subject to section 307(d) of the Act. Accordingly, the EPA has established a docket (No. A–91–71), which consists of an organized and complete file of all information submitted to, or otherwise considered by, the EPA in the development of this action. The docket includes all documents cited by the EPA in this preamble. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review. The docket is available for public inspection at EPA's Air Docket, which is listed under the **ADDRESSES** section of this notice.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must submit to the Office of Management and Budget (OMB) for review significant regulatory actions. The Executive Order defines ''significant regulatory action'' as one that OMB determines is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

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

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

Because the final rule will only affect one facility, the projected nationwide economic impacts are estimated to be far less than $100 million. Furthermore, because the final rule results in the codification of existing controls and practices, no significant adverse effects to the facilities are anticipated. Under Executive Order 12866, this action is not a significant regulatory action, and is, therefore, not subject to review by OMB.

C. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. The rule will, however, cause these entities to implement the rule by incorporating it into permits and enforcing it upon delegation. They will collect permit fees that will be used to offset the resource burden of implementing the rule. Comments were solicited from State partners and considered in the rule development process. No written comments were received on the proposed rule from any State, local, and tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate an affected source. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), requires that the 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 more than $100 million in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Because this rule does not include a Federal mandate and is estimated to result in the expenditure by State, local, and tribal governments or the private sector of significantly less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply to this action.

F. Regulatory Flexibility Act

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

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has

assigned OMB control number 2060–0391.

The information collected will be used by Agency enforcement personnel to perform the following tasks:

- Identify sources subject to the standard
- Ensure that MACT is being properly applied
- Ensure that emission control devices are being properly operated and maintained on a continuous basis to reduce HAP emissions from furnaces and process fugitive sources
- Ensure that fugitive dust controls are being fully implemented.

Owners or operators must comply with the information collection requirements in the rule. The EPA developed this rule under the authority of section 112(d) of the Act, which requires EPA to regulate emissions of 188 HAP listed in section 112(b).

The total 3-year monitoring, recordkeeping, and reporting burden for this collection is estimated at 2,236 labor hours at a total cost of $62,283 for the single existing affected facility. This estimate includes a one-time performance test and report; subsequent performance tests and reports for some sources; semiannual reports when the procedures in a startup, shutdown, and malfunction plan were not followed; quarterly and semiannual excess emissions reports; maintenance inspections; notifications; and recordkeeping. There are no separate capital/startup costs associated with the proposed rules.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to conduct the following activities:

- Review instructions.
- Develop, acquire, install, and utilize technology and systems for the purpose of responding to the information collection.
- Adjust existing ways to comply with any previously applicable instructions and requirements.
- Train personnel to respond to a collection of information.
- Search existing data sources.
- Complete and review the collection of information.
- Transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The EPA is amending the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule. This amendment updates the table to list the information requirements being promulgated today as the NESHAP for ferromanganese and silicomanganese production.

The EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

H. Protection of Children From Environmental Health Risks and Safety Risk Under Executive Order 13045

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it is based on technology performance and not on health or safety risks.

I. National Technology Transfer and Advancement Act

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

This action does not involve the promulgation of any new technical standards. It does, however, incorporate by reference existing technical standards. Incorporated are longstanding EPA reference test methods and procedures for demonstrating compliance with particulate matter standards and opacity standards, specifically EPA test methods 1 through 5 and 9, as codified under 40 CFR 60, appendix A. Consequently, the Agency searched for voluntary consensus standards that might be applicable. The search was conducted through the National Standards System Network (NSSN), an automated service provided by the American National Standards Institute (ANSI) for identifying available national and international standards. The search identified no applicable standards. The EPA did not receive any public comments identifying other possible technical standards. Therefore, the EPA will use the government-unique technical standards cited above for determining compliance.

J. Congressional Review Act

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

''major rule'' as defined by 5 U.S.C. section 804(2).

List of Subjects in 40 CFR Parts 9 and 63

Environmental protection, Air pollution control, Hazardous substances, Ferromanganese and silicomanganese production, Reporting and recordkeeping requirements.

Dated: May 13, 1999.

Carol M. Browner,

Administrator.

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

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding an entry in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
National Emission Standards for Hazardous Air Pollutants for Source Categories [3]	
* * * * *	
63.1620–63.1679	2060–0391
* * * * *	

[3] The ICRs referenced in this section of the table encompass the applicable general provisions contained in 40 CFR part 63, subpart A, which are not independent information collection requirements.

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PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart XXX to read as follows:

Subpart XXX—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

Sec.

63.1620–63.1649 [Reserved].
63.1650 Applicability and compliance dates.
63.1651 Definitions.
63.1652 Emission standards.
63.1653 Opacity standards.
63.1654 Operational and work practice standards.
63.1655 Maintenance requirements.
63.1656 Performance testing, test methods, and compliance demonstrations.
63.1657 Monitoring requirements.
63.1658 Notification requirements.
63.1659 Reporting requirements.
63.1660 Recordkeeping requirements.
63.1661 Delegation of authorities.
63.1662–63.1679 [Reserved].

Subpart XXX—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

§§ 63.1620–63.1649 [Reserved]

§ 63.1650 Applicability and compliance dates.

(a) This subpart applies to all new and existing ferromanganese and silicomanganese production facilities that manufacture ferromanganese or silicomanganese and are major sources or are co-located at major sources of hazardous air pollutant emissions.

(b) The following sources at a ferromanganese and silicomanganese production facility are subject to this subpart:

(1) Submerged arc furnaces.

(2) Metal oxygen refining (MOR) process.

(3) Crushing and screening operations.

(4) Fugitive dust sources.

(c) A new affected source is one for which construction or reconstruction commenced after August 4, 1998.

(d) The following table specifies which provisions of subpart A of this part apply to owners and operators of ferromanganese and silicomanganese production facilities subject to this subpart:

GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX

Reference, Subpart A General Provisions	Applies to Subpart XXX, §§ 63.1620–63.1679	Comment
63.1–63.5	Yes.	
63.6(a)–(g), (i)–(j)	Yes.	
63.6(h)(1)–(h)(6), (h)(8)–(h)(9)	Yes.	
63.7(h)(7)	No	§ 63.6(h)(7), use of continuous opacity monitoring system, not applicable.
63.7	Yes.	
63.8	Yes.	
63.9	Yes	Notification of performance test results changed to a 30-day notification period.
63.10	Yes	Allow changes in dates by which periodic reports are submitted by mutual agreement between the owner or operator and the State to occur any time after the source's compliance date.
63.11	No	Flares will not be used to comply with the emission limits.
63.12–63.15	Yes.	

(e) *Compliance dates.* (1) Each owner or operator of an existing affected source must comply with the requirements of this subpart no later than May 21, 2001.

(2) Each owner or operator of a new or reconstructed affected source that commences construction or reconstruction after August 4, 1998, must comply with the requirements of this subpart by May 20, 1999 or upon startup of operations, whichever is later.

§ 63.1651 Definitions.

Terms in this subpart are defined in the Clean Air Act (Act), in subpart A of this part, or in this section as follows:

Bag leak detection system means a system that is capable of continuously

monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Capture system means the equipment (including hoods, ducts, fans, dampers, etc.) used to capture or transport particulate matter generated by an affected submerged arc furnace.

Casting means the period of time from when molten ferroalloy falls from the furnace tapping runner into the ladle until pouring into molds is completed. This includes the following operations: ladle filling, pouring alloy from one ladle to another, slag separation, slag removal, and ladle transfer by crane, truck, or other conveyance.

Crushing and screening equipment means the crushers, grinders, mills, screens and conveying systems used to crush, size, and prepare for packing manganese-containing materials, including raw materials, intermediate products, and final products.

Fugitive dust source means a stationary source from which manganese-bearing particles are discharged to the atmosphere due to wind or mechanical inducement such as vehicle traffic. Fugitive dust sources include plant roadways, yard areas, and outdoor material storage and transfer operations.

Furnace power input means the resistive electrical power consumption of a submerged arc furnace, expressed as megawatts (MW).

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures caused in part by poor maintenance or careless operation are not malfunctions.

Metal oxygen refining (MOR) process means the reduction of the carbon content of ferromanganese through the use of oxygen.

Open submerged arc furnace means an electric submerged arc furnace that is equipped with a canopy hood above the furnace to collect primary emissions.

Operating time means the period of time in hours that the affected source is in operation beginning at a startup and ending at the next shutdown.

Plant roadway means any area at a ferromanganese and silicomanganese production facility that is subject to plant mobile equipment, such as fork lifts, front end loaders, or trucks, carrying manganese-bearing materials. Excluded from this definition are employee and visitor parking areas, provided they are not subject to traffic by plant mobile equipment.

Primary emissions means gases and emissions collected by hoods and ductwork located above an open furnace or under the cover of a semi-closed or sealed furnace.

Sealed submerged arc furnace means an electric submerged arc furnace equipped with a total enclosure or cover from which primary emissions are evacuated directly.

Semi-closed submerged arc furnace means an electric submerged arc furnace equipped with a partially sealed cover over the furnace. This cover is equipped with openings to allow penetration of the electrodes into the furnace. Mix is introduced into the furnace around the electrode holes forming a partial seal between the electrodes and the cover. Furnace emissions generated under the cover are ducted to an emission control device. Emissions that escape the cover are collected and vented through stacks directly to the atmosphere.

Shop means the building which houses one or more submerged arc furnaces.

Shutdown means the cessation of operation of an affected source for any purpose.

Startup means the setting in operation of an affected source for any purpose.

Submerged arc furnace means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge. The furnace may be of an open, semi-sealed, or sealed design.

Tapping emissions means a source of air pollutant emissions that occur during the process of removing the molten product from the furnace.

Tapping period means the time from when a tap hole is opened until the time a tap hole is closed.

§ 63.1652 Emission standards.

(a) *New and reconstructed submerged arc furnaces.* No owner or operator shall cause to be discharged into the atmosphere from any new or reconstructed submerged arc furnace exhaust gases (including primary and tapping) containing particulate matter in excess of one of the following:

(1) 0.23 kilograms per hour per megawatt (kg/hr/MW) (0.51 pounds per hour per megawatt [lb/hr/MW]), or

(2) 35 milligrams per dry standard cubic meter (mg/dscm) (0.015 grains per dry standard cubic foot [gr/dscf]).

(b) *Existing open submerged arc furnaces.* No owner or operator shall cause to be discharged into the atmosphere from any existing open submerged arc furnace exhaust gases (including primary and tapping) containing particulate matter in excess of one of the following:

(1) 16.3 kilograms per hour (kg/hr) (35.9 pounds per hour [lb/hr]) when producing silicomanganese, or

(2) 6.4 kg/hr (14.0 lb/hr) when producing ferromanganese.

(c) *Existing semi-sealed submerged arc furnaces.* No owner or operator shall cause to be discharged into the atmosphere from any existing semi-sealed submerged arc furnace exhaust gases (including primary, tapping, and vent stacks) containing particulate matter in excess of 11.2 kg/hr (24.7 lb/hr) when producing ferromanganese.

(d) *MOR process.* No owner or operator shall cause to be discharged into the atmosphere from any new, reconstructed, or existing MOR process exhaust gases containing particulate matter in excess of 69 mg/dscm (0.03 gr/dscf).

(e) *Crushing and screening equipment.* (1) *New and reconstructed equipment.* No owner or operator shall cause to be discharged into the atmosphere from any new or reconstructed piece of equipment associated with crushing and screening exhaust gases containing particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).

(2) *Existing equipment.* No owner or operator shall cause to be discharged into the atmosphere from any existing piece of equipment associated with crushing and screening exhaust gases containing particulate matter in excess of 69 (mg/dscm) (0.03 gr/dscf).

§ 63.1653 Opacity standards.

No owner or operator shall cause emissions exiting from a shop due solely to operations of any affected submerged arc furnace, to exceed 20 percent opacity for more than one 6-minute period during any performance test, with the following exceptions:

(a) Visible particulate emissions from a shop due solely to operation of a semi-closed submerged arc furnace, may exceed 20 percent opacity, measured as a 6-minute average, one time during any performance test, so long as the emissions never exceed 60 percent opacity, measured as a 6-minute average.

(b) Blowing taps, poling and oxygen lancing of the tap hole; burndowns associated with electrode measurements; and maintenance activities associated with submerged arc furnaces and casting operations are

exempt from the opacity standards specified in this section.

§ 63.1654 Operational and work practice standards.

(a) *Fugitive dust sources.* (1) Each owner or operator of an affected ferromanganese and silicomanganese production facility must prepare, and at all times operate according to, a fugitive dust control plan that describes in detail the measures that will be put in place to control fugitive dust emissions from the individual fugitive dust sources at the facility.

(2) The owner or operator must submit a copy of the fugitive dust control plan to the designated permitting authority on or before the applicable compliance date for the affected source as specified in § 63.1650(e). The requirement for the owner or operator to operate the facility according to a written fugitive dust control plan must be incorporated in the operating permit for the facility that is issued by the designated permitting authority under part 70 of this chapter.

(3) The owner or operator may use existing manuals that describe the measures in place to control fugitive dust sources required as part of a State implementation plan or other federally enforceable requirement for particulate matter to satisfy the requirements of paragraph (a)(1) of this section.

(b) *Baghouses equipped with bag leak detection systems.* The owner or operator of a new or reconstructed submerged arc furnace must install and continuously operate a bag leak detection system if the furnace's primary and/or tapping emissions are ducted to a negative pressure baghouse or to a positive pressure baghouse equipped with a stack. The owner or operator must maintain and operate each baghouse such that the following conditions are met:

(1) The alarm on the system does not sound for more than 5 percent of the total operating time in a 6-month reporting period.

(2) A record is made of the date and time of each alarm and procedures to determine the cause of the alarm are initiated within 1 hour of the alarm according to the plan for corrective action required under § 63.1657(a)(7).

§ 63.1655 Maintenance requirements.

(a) The owner or operator of an affected source must comply with the requirements of § 63.6(e) of subpart A.

(b)(1) The owner or operator must develop and implement a written maintenance plan for each air pollution control device associated with submerged arc furnaces, metal oxygen refining processes, and crushing and screening operations subject to the provisions of this part. The owner or operator must keep the maintenance plan on record and available for the Administrator's inspection for the life of the air pollution control device or until the affected source is no longer subject to the provisions of this part.

(2) To satisfy the requirement to develop maintenance plans, the owner or operator may use the affected source's standard operating procedures (SOP) manual or other plan, provided the alternative plan meets the requirements of this paragraph and is made available for inspection when requested by the Administrator.

(c) The procedures specified in the maintenance plan must include a preventive maintenance schedule that is consistent with good air pollution control practices for minimizing emissions and, for baghouses, ensure that the requirements specified in § 63.1657(a) are met.

(d) The owner or operator must perform monthly inspections of the equipment that is important to the performance of the furnace capture system. This inspection must include an examination of the physical condition of the equipment, suitable for detecting holes in ductwork or hoods, flow constrictions in ductwork due to dents or accumulated dust, and operational status of flow rate controllers (pressure sensors, dampers, damper switches, etc.). Any deficiencies must be recorded and proper maintenance and repairs performed.

§ 63.1656 Performance testing, test methods, and compliance demonstrations.

(a) *Performance testing.* (1) All performance tests must be conducted according to the requirements in § 63.7 of subpart A.

(2) Each performance test must consist of three separate and complete runs using the applicable test methods.

(3) Each run must be conducted under conditions that are representative of normal process operations.

(4) Performance tests conducted on air pollution control devices serving submerged arc furnaces must be conducted such that at least one tapping period, or at least 20 minutes of a tapping period, whichever is less, is included in at least two of the three runs. The sampling time for each run must be at least as long as three times the average tapping period of the tested furnace, but no less than 60 minutes.

(5) The sample volume for each run must be at least 0.9 dscm (30 dscf).

(b) *Test methods.* The following test methods in Appendix A of part 60 of this chapter must be used to determine compliance with the emission standards.

(1) Method 1 to select the sampling port location and the number of traverse points.

(2) Method 2 to determine the volumetric flow rate of the stack gas.

(3) Method 3 to determine the dry molecular weight of the stack gas.

(4) Method 4 to determine the moisture content of the stack gas.

(5) Method 5 to determine the particulate matter concentration of the stack gas for negative pressure baghouses and positive pressure baghouses with stacks.

(6) Method 5D to determine particulate matter concentration and volumetric flow rate of the stack gas for positive pressure baghouses without stacks.

(7) Method 9 to determine opacity.

(8) The owner or operator may use equivalent alternative measurement methods approved by the Administrator following the procedures described in § 63.7(f) of subpart A.

(c) *Compliance demonstration with the emission standards.* (1) The owner or operator must conduct an initial performance test for air pollution control devices or vent stacks subject to § 63.1652(a) through (e) to demonstrate compliance with the applicable emission standards.

(2) The owner or operator must conduct annual performance tests for the air pollution control devices and vent stacks associated with the submerged arc furnaces, with the exception of any air pollution control devices that serve tapping emissions combined with non-furnace emissions, such as the MOR process or equipment associated with crushing and screening. Also excluded are air pollution control devices that serve dedicated non-furnace emissions, such as the MOR process or equipment associated with crushing and screening. The results of these annual tests will be used to demonstrate compliance with the emission standards in § 63.1652(a) through (e), as applicable.

(3) Following development, and approval, if required, of the site-specific test plan, the owner or operator must conduct a performance test for each air pollution control device or vent stack to measure particulate matter and determine compliance with the applicable standard.

(i) An owner or operator of sources subject to the particulate matter concentration standards in § 63.1652(a)(2), (d), or (e), must determine compliance as follows:

(A) Determine the particulate matter concentration using Method 5 or 5D, as applicable.

(B) Compliance is demonstrated if the average concentration for the three runs comprising the performance test does not exceed the standard.

(ii) An owner or operator of sources subject to the particulate mass rate standards in § 63.1652(b) or (c) must determine compliance as follows:

(A) Determine the particulate matter concentration and volumetric flow rate using Method 5 or 5D, as applicable.

(B) Compute the mass rate (E_M) of particulate matter for each run using the following equation:

$$E_M = \left[\sum_{i=1}^{N} C_{si} Q_{sdi}\right] / K$$

Where:

E_M = mass rate of particulate matter, kg/hr (lb/hr).

N = total number of exhaust streams at which emissions are quantified.

C_{si} = concentration of particulate matter from exhaust stream ''i'', mg/dscm (gr/dscf).

Q_{sdi} = volumetric flow rate of effluent gas from exhaust stream ''i'', dscm/hr (dscf/hr)

K = conversion factor, 1×10^6 mg/kg (7,000 gr/lb).

(C) Compliance is demonstrated if the average of the mass rates for the three runs comprising the performance test does not exceed the standard.

(iii) An owner or operator of sources subject to the particulate matter process-weighted rate standard in § 63.1652(a)(1) must determine compliance as follows:

(A) Determine particulate matter concentration and volumetric flow rate using Method 5 or 5D, as applicable.

(B) Compute the process-weighted mass rate (E_P) of particulate matter for each run using the following equation:

$$E_P = \left[\sum_{i=1}^{N} C_{si} Q_{sdi}\right] / PK$$

Where:

E_P = process-weighted mass rate of particulate matter, kg/hr/MW (lb/hr/MW).

N = total number of exhaust streams at which emissions are quantified.

C_{si} = concentration of particulate matter from exhaust stream ''i'', mg/dscm (gr/dscf)

Q_{sdi} = volumetric flow rate of effluent gas from exhaust stream ''i'', dscm/hr (dscf/hr)

P = Average furnace power input, MW

K = conversion factor, 1×10^6 mg/kg (7,000 gr/lb).

(C) Compliance is demonstrated if the average process-weighted mass rate for the three runs comprising the performance test does not exceed the standard.

(4) If a venturi scrubber is used to comply with the emission standards, the owner or operator must establish as a site-specific operating parameter the lowest average pressure drop on any individual complying run in the three runs constituting any compliant test. The pressure drop must be monitored at least every 5 minutes during the test and hourly averages recorded.

(i) [Reserved]

(ii) The owner or operator may augment the data obtained under paragraph (a)(4) of this section by conducting multiple performance tests to establish a range of compliant operating parameter values. The lowest value of this range would be selected as the operating parameter monitoring value. The use of historic compliance data may be used to establish the compliant operating parameter value if the previous values were recorded during performance tests using the same test methods specified in this subpart and established as required in paragraph (a)(4) of this section.

(d) *Compliance demonstration with opacity standards.*

(1)(i) The owner or operator subject to § 63.1653 must conduct initial opacity observations of the shop building to demonstrate compliance with the applicable opacity standards according to § 63.6(h)(5), which addresses the conduct of opacity or visible emission observations.

(ii) In conducting the opacity observations of the shop building, the observer must limit his or her field of view to the area of the shop building roof monitor that corresponds to the placement of the affected submerged arc furnaces.

(iii) The owner or operator must conduct the opacity observations according to EPA Method 9 of 40 CFR part 60, appendix A, for a minimum of 60 minutes.

(2)(i) When demonstrating initial compliance with the shop building opacity standard, as required by paragraph (d)(1) of this section, the owner or operator must simultaneously establish parameter values for one of the following: the control system fan motor amperes and all capture system damper positions, the total volumetric flow rate to the air pollution control device and all capture system damper positions, or volumetric flow rate through each separately ducted hood that comprises the capture system.

(ii) The owner or operator may petition the Administrator to reestablish these parameters whenever he or she can demonstrate to the Administrator's satisfaction that the submerged arc furnace operating conditions upon which the parameters were previously established are no longer applicable. The values of these parameters determined during the most recent demonstration of compliance must be maintained at the appropriate level for each applicable period.

(3) The owner or operator must demonstrate continuing compliance with the opacity standards by following the monitoring requirements specified in § 63.1657(c) and the reporting and recordkeeping requirements specified in §§ 63.1659(b)(4) and 63.1660(b).

(e) *Compliance demonstration with the operational and work practice standards.*

(1) *Fugitive dust sources.* Failure to have a fugitive dust control plan or failure to report deviations from the plan and take necessary corrective action would be a violation of the general duty to ensure that fugitive dust sources are operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions per § 63.6(e)(1)(i) of subpart A.

(2) *Baghouses equipped with bag leak detection systems.* The owner or operator demonstrates compliance with the bag leak detection system requirements by submitting reports as required by § 63.1659(b)(5) showing that the alarm on the system does not sound for more than 5 percent of the total operating time in a 6-month period. Calculate the percentage of total operating time the alarm on the bag leak detection system sounds as follows:

(i) Do not include alarms that occur due solely to a malfunction of the bag leak detection system in the calculation.

(ii) Do not include alarms that occur during startup, shutdown, and malfunction in the calculation if the condition is described in the startup, shutdown, and malfunction plan and the owner or operator follows all the procedures in the plan defined for this condition.

(iii) Count 1 hour of alarm time for each alarm where the owner or operator initiates procedures to determine the cause within 1 hour of the alarm.

(iv) Count the actual time it takes the owner or operator to initiate procedures to determine the cause of the alarm for each alarm where the owner or operator does not initiate procedures to determine the cause within 1 hour of the alarm.

(v) Calculate the percentage of time the alarm on the bag leak detection system sounds as the ratio of the sum of alarm times to the total operating time multiplied by 100.

§ 63.1657 Monitoring requirements.

(a) *Baghouses.* (1) For the baghouses serving the submerged arc furnaces, the metal oxygen refining process, and crushing and screening operations, the owner or operator must observe on a daily basis for the presence of any visible emissions.

(2) In addition to the daily visible emissions observation, the owner or operator must conduct the following activities:

(i) Daily monitoring of pressure drop across each baghouse cell, or across the baghouse if it is not possible to monitor each cell individually, to ensure the pressure drop is within the normal operating range identified in the baghouse maintenance plan.

(ii) Weekly confirmation that dust is being removed from hoppers through visual inspection, or equivalent means of ensuring the proper functioning of removal mechanisms.

(iii) Daily check of compressed air supply for pulse-jet baghouses.

(iv) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(v) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(vi) Quarterly visual check of bag tension on reverse air and shaker-type baghouses to ensure that the bags are not kinked (kneed or bent) or laying on their sides. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(vii) Quarterly confirmation of the physical integrity of the baghouse structure through visual inspection of the baghouse interior for air leaks.

(viii) Semiannual inspection of fans for wear, material buildup, and corrosion through visual inspection, vibration detectors, or equivalent means.

(3) In addition to meeting the requirements of paragraphs (a)(1) and (a)(2) of this section, the owner or operator of a new or reconstructed submerged arc furnace must install and continuously operate a bag leak detection system if the furnace primary and/or tapping emissions are ducted to a negative pressure baghouse or to a positive pressure baghouse equipped with a stack. The bag leak detection system must meet the following requirements:

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative particulate matter loadings, and the owner or operator must continuously record the output from the bag leak detection system.

(iii) The bag leak detection system must be equipped with an alarm system that will sound when an increase in relative particulate loadings is detected over a preset level. The alarm must be located where it can be heard by the appropriate plant personnel.

(iv) Each bag leak detection system that works based on the triboelectric effect must be installed, calibrated, operated, and maintained consistent with the U.S. Environmental Protection Agency guidance document ''Fabric Filter Bag Leak Detection Guidance'' (EPA–454/R–98–015). Other bag leak detection systems must be installed, calibrated, and maintained consistent with the manufacturer's written specifications and recommendations.

(v) The initial adjustment of the system must, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device, and establishing the alarm set points and the alarm delay time.

(vi) Following initial adjustment, the owner or operator must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the maintenance plan required under § 63.1655(b). In no event must the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless a responsible official certifies the baghouse has been inspected and found to be in good operating condition.

(vii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(4) As part of the maintenance plan required by § 63.1655(b), the owner or operator must develop and implement corrective action procedures to be followed in the case of a bag leak detection system alarm (for baghouses equipped with such a system), the observation of visible emissions from the baghouse, or the indication through the periodic baghouse system inspections that the system is not operating properly. The owner or operator must initiate corrective action as soon as practicable after the occurrence of the observation or event indicating a problem.

(5) The corrective action plan must include procedures used to determine the cause of an alarm or other indications of problems as well as actions to minimize emissions. These actions may include the following:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media, or otherwise repairing the control device.

(iv) Sealing off a defective baghouse compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(vi) Shutting down the process producing the particulate matter emissions.

(6) Failure to monitor or failure to take corrective action under the requirements of paragraph (a) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.6(e)(1)(i) of subpart A.

(b) *Venturi scrubbers.* (1) The owner or operator must monitor the pressure drop across the venturi at least every 5 minutes and record the average hourly pressure drop. Measurement of an average hourly pressure drop less than the pressure drop operating parameter limit established during a successful compliance demonstration would be a violation of the applicable emission standard, unless the excursion in the pressure drop is due to a malfunction.

(2) As part of the maintenance plan required by § 63.1655(b), the owner or operator must develop and implement corrective action procedures to be followed in the case of a violation of the pressure drop requirement. The owner or operator must initiate corrective action as soon as practicable after the excursion.

(3) Failure to monitor or failure to take corrective action under the requirements of paragraph (b) of this section is a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.6(e)(1)(i).

(c) *Shop opacity.* The owner or operator subject to the opacity standards in § 63.1653 must comply with one of the monitoring options in paragraphs (c)(1), (c)(2) or (c)(3) of this section. The selected option must be consistent with

that selected during the initial performance test described in § 63.1656(d)(2). Alternatively, the owner or operator may use the provisions of § 63.8(f) to request approval to use an alternative monitoring method.

(1) The owner or operator must check and record the control system fan motor amperes and capture system damper positions once per shift.

(2) The owner or operator must install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood.

(3) The owner or operator must install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the inlet of the air pollution control device and must check and record the capture system damper positions once per shift.

(4) The flow rate monitoring devices must meet the following requirements:

(i) Be installed in an appropriate location in the exhaust duct such that reproducible flow rate monitoring will result.

(ii) Have an accuracy ±10 percent over its normal operating range and be calibrated according to the manufacturer's instructions.

(5) The Administrator may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to Methods 1 and 2 of appendix A of part 60 of this chapter.

(6) Failure to maintain the appropriate capture system parameters (fan motor amperes, flow rate, and/or damper positions) establishes the need to initiate corrective action as soon as practicable after the monitoring excursion in order to minimize excess emissions.

(7) Failure to monitor or failure to take corrective action under the requirements of paragraph (c) of this section is a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.6(e)(1)(i).

§ 63.1658 Notification requirements.

(a) As required by § 63.9(b) of subpart A, unless otherwise specified in this subpart, the owner or operator must submit the following written notifications to the Administrator:

(1) The owner or operator of an area source that subsequently becomes subject to the requirements of the standard must provide notification to the applicable permitting authority as required by § 63.9(b)(1).

(2) As required by § 63.9(b)(2), the owner or operator of an affected source that has an initial startup before the effective date of the standard must notify the Administrator that the source is subject to the requirements of the standard. The notification must be submitted no later than 120 calendar days after May 20, 1999 (or within 120 calendar days after the source becomes subject to this standard) and must contain the information specified in § 63.9(b)(2)(i) through (b)(2)(v).

(3) As required by § 63.9(b)(3), the owner or operator of a new or reconstructed affected source, or a source that has been reconstructed such that it is an affected source, that has an initial startup after the effective date and for which an application for approval of construction or reconstruction is not required under § 63.5(d), must notify the Administrator in writing that the source is subject to the standards no later than 120 days after initial startup. The notification must contain the information specified in § 63.9(b)(2)(i) through (b)(2)(v), delivered or postmarked with the notification required in § 63.9(b)(5).

(4) As required by § 63.9(b)(4), the owner or operator of a new or reconstructed major affected source that has an initial startup after the effective date of this standard and for which an application for approval of construction or reconstruction is required under § 63.5(d) must provide the information specified in § 63.9(b)(4)(i) through (b)(4)(v).

(5) As required by § 63.9(b)(5), the owner or operator who, after the effective date of this standard, intends to construct a new affected source or reconstruct an affected source subject to this standard, or reconstruct a source such that it becomes an affected source subject to this standard, must notify the Administrator, in writing, of the intended construction or reconstruction.

(b) *Request for extension of compliance.* As required by § 63.9(c), if the owner or operator of an affected source cannot comply with this standard by the applicable compliance date for that source, or if the owner or operator has installed BACT or technology to meet LAER consistent with § 63.6(i)(5), he or she may submit to the Administrator (or the State with an approved permit program) a request for an extension of compliance as specified in § 63.6(i)(4) through (i)(6).

(c) *Notification that source is subject to special compliance requirements.* As required by § 63.9(d), an owner or operator of a new source that is subject to special compliance requirements as specified in § 63.6(b)(3) and (b)(4) must notify the Administrator of his or her compliance obligations no later than the notification dates established in § 63.9(b) for new sources that are not subject to the special provisions.

(d) *Notification of performance test.* As required by § 63.9(e), the owner or operator of an affected source must notify the Administrator in writing of his or her intention to conduct a performance test at least 30 calendar days before the performance test is scheduled to begin to allow the Administrator to review and approve the site-specific test plan required under § 63.7(c) and to have an observer present during the test.

(e) *Notification of opacity and visible emission observations.* As required by § 63.9(f), the owner or operator of an affected source must notify the Administrator in writing of the anticipated date for conducting the opacity or visible emission observations specified in § 63.6(h)(5). The notification must be submitted with the notification of the performance test date, as specified in paragraph (d) of this section, or if visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under § 63.7, the owner or operator must deliver or postmark the notification not less than 30 days before the opacity or visible emission observations are scheduled to take place.

(f) *Notification of compliance status.* The owner or operator of an affected source must submit a notification of compliance status as required by § 63.9(h). The notification must be sent before the close of business on the 60th day following completion of the relevant compliance demonstration.

§ 63.1659 Reporting requirements.

(a) *General reporting requirements.* The owner or operator of a ferromanganese and silicomanganese production facility must comply with all of the reporting requirements under § 63.10 of subpart A, unless otherwise specified in this subpart.

(1) *Frequency of reports.* As provided by § 63.10(a)(5), if the owner or operator is required to submit periodic reports to a State on an established time line, he or she may change the dates by which periodic reports submitted under this part may be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. This provision may be applied at any point after the source's compliance date.

(2) *Reporting results of performance tests.* As required by § 63.10(d)(2), the owner or operator of an affected source must report the results of the initial

performance test as part of the notification of compliance status required in § 63.1658(f).

(3) [Reserved]

(4) *Periodic startup, shutdown, and malfunction reports.* (i) As required by § 63.10(d)(5)(i), if actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the startup, shutdown, and malfunction plan, the owner or operator must state such information in a semiannual report. The report, to be certified by the owner or operator or other responsible official, must be submitted semiannually and delivered or postmarked by the 30th day following the end of each calendar half; and

(ii) Any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures in the startup, shutdown, and malfunction plan, the owner or operator must comply with all requirements of § 63.10(d)(5)(ii).

(b) *Specific reporting requirements.* In addition to the information required under § 63.10, reports required under paragraph (a) of this section must include the information specified in paragraphs (b)(1) through (b)(5) of this section. As allowed by § 63.10(a)(3), if any State requires a report that contains all of the information required in a report listed in this section, an owner or operator may send the Administrator a copy of the report sent to the State to satisfy the requirements of this section for that report.

(1) *Air pollution control devices.* The owner or operator must submit reports that summarize the records maintained as part of the practices described in the maintenance plan for air pollution control devices required under § 63.1655(b), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(2) *Venturi scrubbers.* In addition to the information required to be submitted in paragraph (b)(1) of this section, the owner or operator must submit reports that identify the periods when the average hourly pressure drop of venturi scrubbers used to control particulate emissions dropped below the levels established in § 63.1656(c)(4), and an explanation of the corrective actions taken.

(3) *Fugitive dust.* The owner or operator must submit reports that explain the periods when the procedures outlined in the fugitive dust control plan pursuant to § 63.1654(a) were not followed and the corrective actions taken.

(4) *Capture system.* The owner or operator must submit reports that summarize the monitoring parameter excursions measured pursuant to § 63.1657(c) and the corrective actions taken.

(5) *Bag leak detection system.* The owner or operator must submit reports including the following information:

(i) Records of all alarms.

(ii) Description of the actions taken following each bag leak detection system alarm.

(iii) Calculation of the percent of time the alarm on the bag leak detection system sounded during the reporting period.

(6) *Frequency of reports.* (i) The owner or operator must submit reports pursuant to § 63.10(e)(3) that are associated with excess emissions events such as the excursion of the scrubber pressure drop limit per paragraph (b)(2) of this section. These reports are to be submitted on a quarterly basis, unless the owner or operator can satisfy the requirements in § 63.10(e)(3) to reduce the frequency to a semiannual basis.

(ii) All other reports specified in paragraphs (b)(1) through (b)(5) of this section must be submitted semiannually.

§ 63.1660 Recordkeeping requirements.

(a) *General recordkeeping requirements.* (1) The owner or operator of a ferromanganese and silicomanganese production facility must comply with all of the recordkeeping requirements under § 63.10.

(2) As required by § 63.10(b)(2), the owner or operator must maintain records for 5 years from the date of each record of:

(i) The occurrence and duration of each startup, shutdown, or malfunction of operation (i.e., process equipment and control devices);

(ii) The occurrence and duration of each malfunction of the source or air pollution control equipment;

(iii) All maintenance performed on the air pollution control equipment;

(iv) Actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation) when such actions are different from the procedures specified in the startup, shutdown, and malfunction plan;

(v) All information necessary to demonstrate conformance with the startup, shutdown, and malfunction plan when all actions taken during periods of startup, shutdown, and malfunction (including corrective actions) are consistent with the procedures specified in such plan. This information can be recorded in a checklist or similar form (see § 63.10(b)(2)(v));

(vi) All required measurements needed to demonstrate compliance with the standard and to support data that the source is required to report, including, but not limited to, performance test measurements (including initial and any subsequent performance tests) and measurements as may be necessary to determine the conditions of the initial test or subsequent tests;

(vii) All results of initial or subsequent performance tests;

(viii) If the owner or operator has been granted a waiver from recordkeeping or reporting requirements under § 63.10(f), any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements;

(ix) If the owner or operator has been granted a waiver from the initial performance test under § 63.7(h), a copy of the full request and the Administrator's approval or disapproval;

(x) All documentation supporting initial notifications and notifications of compliance status required by § 63.9; and

(xi) As required by § 63.10(b)(3), records of any applicability determination, including supporting analyses.

(b) *Specific recordkeeping requirements.* (1) In addition to the general records required by paragraph (a) of this section, the owner or operator must maintain records for 5 years from the date of each record of:

(i) Records of pressure drop across the venturi if a venturi scrubber is used.

(ii) Records of manufacturer certification that monitoring devices are accurate to within 5 percent (unless otherwise specified in this subpart) and of calibrations performed at the manufacturer's recommended frequency, or at a frequency consistent with good engineering practice, or as experience dictates.

(iii) Records of bag leak detection system output.

(iv) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, and the date and time the alarm was corrected.

(v) Copy of the written maintenance plan for each air pollution control device.

(vi) Copy of the fugitive dust control plan.

(vii) Records of each maintenance inspection and repair, replacement, or other corrective action.

(2) All records for the most recent 2 years of operation must be maintained on site. Records for the previous 3 years may be maintained off site.

§ 63.1661 Delegation of authorities.

In delegating implementation and enforcement authority to a State under subpart E of this part, the Administrator retains no authorities.

§§ 63.1662—63.1679 [Reserved].

[FR Doc. 99–12584 Filed 5–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–9915; FRL–6335–8]

Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Revised Format for Materials Being Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the State of North Carolina that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the State agency and approved by EPA.

This format revision will affect the ''Identification of plan'' sections of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or state-submitted materials not subject to IBR review remain unchanged.

EFFECTIVE DATE: This action is effective May 20, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Randy Terry at the above Region 4 address or at 404–562–9032.

SUPPLEMENTARY INFORMATION:

The supplementary information is organized in the following order:

What is a SIP?
How EPA enforces SIPs.
How the State and EPA update the SIP.
How EPA compiles the SIPs.
How EPA organizes the SIP Compilation.
Where you can find a copy of the SIP Compilation.
The format of the new Identification of Plan Section.
When a SIP revision become federally enforceable.
The historical record of SIP revision approvals.
What EPA is doing in this action.
How this document complies with the Federal Administrative Requirements for rulemaking.

What Is a SIP?

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA.

Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements the SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and OFR.

EPA began the process of developing:

1. A revised SIP document for each state that would be incorporated by reference under the provisions of 1 CFR part 51;

2. A revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and

3. A revised format of the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures.

The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

How EPA Compiles the SIPs

The federally-approved regulations and source specific permits (entirely or portions of), submitted by each state agency have been compiled by EPA into a ''SIP Compilation.'' The SIP Compilation contains the updated regulations and source specific permits approved by EPA through previous rule making actions in the **Federal Register**. The compilations are contained in 3-ring binders and will be updated, primarily on an annual basis.

How EPA Organizes the SIP Compilation

Each SIP Compilation contains two parts. Part 1 contains the regulations and Part 2 contains the source specific requirements that have been approved as part of the SIP. Each part has a table of contents identifying each regulation or each source specific permit. The table of contents in the compilation corresponds to the table of contents published in 40 CFR part 52 for each state. The Regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations.

Where You Can Find a Copy of the SIP Compilation

The Region 4 EPA Office developed and will maintain the compilation for the State of North Carolina. A copy of the full text of each state's current compilation will also be maintained at the Office of Federal Register and EPA's Air Docket and Information Center.

The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the ''Identification of plan'' section and included additional information to clarify the enforceable elements of the SIP.

The revised Identification of plan section contains five subsections:

(a) Purpose and scope
(b) Incorporation by reference
(c) EPA approved regulations
(d) EPA approved source specific permits
(e) EPA approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable identification of plan found in each subpart of 40 CFR part 52.

The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures, and will decide whether or not to retain the Identification of plan appendices for some further period.

What EPA Is Doing in This Action

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

How This Document Complies With the Federal Administrative Requirements for Rule Making

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

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

D. Executive Order 13045

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

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

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any

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

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Georgia compilation has previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 20, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

2. Section 52.1770 is redesignated as § 52.1783 and the heading and paragraph (a) are revised to read as follows:

§ 52.1783 Original Identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State of North Carolina'' and all revisions submitted by North Carolina that were federally approved prior to December 1, 1998.

* * * * *

3. A new § 52.1770 is added to read as follows:

§ 52.1770 Identification of plan.

(a) Purpose and scope. This section sets forth the applicable State implementation plan for North Carolina under section 110 of the Clean Air Act, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards.

(b) Incorporation by reference. (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 1, 1998, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 1, 1998, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of December 1, 1998.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC. 20460.

(c) EPA approved regulations.

EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
	Subchapter 2D Air Pollution Control Requirements			
	Section .0100 Definitions and References			
Sect .0101	Definitions	7/01/96	08/01/97, 62 FR 41277.	
Sect .0103	Copies of Referenced Federal Regulations.	12/01/92	08/15/94, 59 FR 41709.	
Sect .0104	Incorporation by Reference Updates	05/01/95	02/01/96, 61 FR 3589.	
	Section .0200 Air Pollution Sources			
Sect. .0201	Classification of Air Pollution Sources	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0202	Registration of Air Pollution Sources	6/01/85	11/19/86, 51 FR 41786.	
	Section .0300 Air Pollution Emergencies			
Sect. .0301	Purpose	2/01/76	6/03/86, 51 FR 19834.	
Sect. .0302	Episode Criteria	7/01/88	1/16/90, 55 FR 1420.	
Sect. .0303	Emission Reduction Plans	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0304	Preplanned Abatement Program	04/14/88	12/12/88, 53 FR 49881.	
Sect. .0305	Emission Reduction Plan; Alert Level	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0306	Emission Reduction Level; Warning Level.	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0307	Emission Reduction Level; Emergency Level.	4/12/84	10/11/85, 50 FR 41501.	
	Section .0400 Ambient Air Quality Standards			
Sect. .0401	Purpose	12/01/92	8/15/94, 59 FR 41709.	
Sect. .0402	Sulfur Oxides	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0403	Total Suspended Particulates	7/01/88	1/16/90, 55 FR 1420.	
Sect. .0404	Carbon Monoxide	10/01/89	3/12/90, 55 FR 9127.	
Sect. .0405	Ozone	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0407	Nitrogen Dioxide	10/01/89	3/12/90, 55 FR 9127.	
Sect. .0408	Lead	4/12/84	10/11/85, 50 FR 41501.	
Sect. .0409	Particulate Matter	7/01/88	1/16/90, 55 FR 1420.	
	Section .0500 Emission Control Standards			
Sect. .0501	Compliance With Emission Control Standards.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0502	Purpose	3/01/81	6/26/82 47 FR 31924.	
Sect. .0503	Particulates From Fuel Burning Indirect Heat Exchangers.	7/01/94	02/01/96 61 FR 3584.	
Sect. .0504	Particulates From Wood Burning Indirect Heat Exchangers.	3/14/85	11/19/86 51 FR 41786.	
Sect. .0505	Control of Particulates From Incinerators.	7/01/87	2/29/88 53 FR 5974.	
Sect. .0506	Control of Particulates From Hot Mix Asphalt Plants.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0507	Particulates From Chemical Fertilizer Manufacturing Plants.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0508	Control of Emissions from Pulp and Paper Mills.	8/01/87	12/15/87 52 FR 33933.	
Sect. .0509	Particulates From Mica or Feldspar Processing Plants.	4/01/86	4/17/87 52 FR 15513.	
Sect. .0510	Particulates: Sand, Gravel, Crushed Stone Operations.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0511	Particulates, SO(2), From lightweight Aggregate Processes.	10/01/89	3/12/90 55 FR 9127.	
Sect. .0512	Particulates From Wood Products Finishing Plants.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0513	Control of Particulates From Portland Cement Plants.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0514	Control of Particulates From Ferrous Jobbing Foundries.	4/01/86	04/17/87 52 FR 15513.	
Sect. .0515	Particulates From Miscellaneaous Industrial Processes.	11/01/84	12/19/86 51 FR 45468.	
Sect. .0516	Sulfur Dioxide Emissions Combustion Sources.	07/01/96	08/01/97 62 FR 41277.	
Sect. .0517	SO2 Emissions From Plants Producing Sulfuric Acid.	11/01/84	12/19/86 51 FR 45468.	

EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Sect. .0518	Miscellaneous Volatile Organic Compound Emissions.	07/01/96	08/01/97 62 FR 41277.	
Sect. .0519	Control of Nitrogen Dioxide Emissions	07/01/96	08/01/97 62 FR 41277.	
Sect. .0520	Control and Prohibition of Open Burning.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0521	Control of Visible Emissions	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0522	Control and Prohibition of Odorous Emissions.	2/01/76	6/03/86, 51 FR 19834.	
Sect. .0523	Control of Conical Incinerators	1/01/85	9/09/87, 52 FR 33933.	
Sect. .0527	Emissions From Spodumene Ore Roasting.	11/01/84	12/19/86, 51 FR 45468.	
Sect. .0530	Prevention of Significant Deterioration	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0531	Sources in Nonattainment Area	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0532	Sources Contributing to an Ambient Violation.	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0533	Stack Height	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0535	Malfunction, Start-ups and Shutdowns	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0536	Particulate Emissions From Electric Utility Boilers.	08/01/91	02/14/96, 62 FR 5690.	
Section .0600 Air Contaminants; Monitoring, Reporting				
Sect. .0601	Purpose and Scope	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0602	Definitions	04/12/84	10/11/85, 50 FR 41501.	
Sect. .0604	Sources Covered by Implementation Plan Requirements.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0605	Wood and Wood-Fossil Fuel Combination Units.	04/12/84	10/11/85, 50 FR 41501.	
Sect. .0606	Other Coal or Residual Oil Burners	05/02/88	12/12/88, 53 FR 49881.	
Sect. .0607	Exceptions to Monitoring and Reporting Requirements.	04/12/84	10/11/85, 50 FR 41501.	
Sect. .0608	Program Schedule	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0609	Monitoring Condition in Permit	04/12/84	10/11/85, 50 FR 41501.	
Sect. .0610	Delegation	06/03/88	11/13/89, 54 FR 47211.	
Section .0800 Complex Sources				
Sect. .0801	Purpose and Scope	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0802	Definitions	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0803	Highway Projects	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0804	Airport Facilities	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0805	Parking Facilities	07/01/94	02/01/96, 61 FR 3584.	
Sect. .0806	Ambient Monitoring and Modeling Analysis.	07/01/94,	02/01/96 61 FR 3584.	
Section .0900 Volatile Organic Compounds				
Sect. .0901	Definitions	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0902	Applicability	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0903	Recordkeeping, Reporting; Monitoring	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0905	Petition for Alternative Controls	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0906	Circumvention	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0907	Compliance Schedules for Sources in Nonattainment Areas.	05/01/95	02/01/96, 62 FR 3589.	
Sect. .0908	Equipment Modification Compliance Schedules.	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0909	Compliance Schedules for Sources in New Nonattainment Areas.	07/01/95	02/01/96, 62 FR 3589.	
Sect. .0910	Alternate Compliance Schedules	05/01/95	02/01/96, 62 FR 3589.	
Sect. .0911	Exceptions for Compliance Schedules	05/01/95	02/01/96, 62 FR 3589.	
Sect. .0912	General Provisions on Test Methods and Procedures.	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0913	Determination of Volatile Content of Surface Coatings.	07/01/88	1/16/90, 55 FR 1420.	
Sect. .0914	Determination of VOC Emission Control System Efficiency.	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0915	Determination of Solvent Metal Cleaning VOC Emissions.	11/08/84	12/19/86, 51 FR 45468.	
Sect. .0916	Determination of VOC Emissions from Bulk Gasoline Terminals.	07/01/88	1/16/90, 55 FR 1420.	
Sect. .0917	Automobile and Light-Duty Truck Manufacturing.	07/01/96	08/01/97, 62 FR 41277.	

EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Sect. .0918	Can Coating	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0919	Coil Coating	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0920	Paper Coating	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0921	Fabric and Vinyl Coating	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0922	Metal Furniture Coating	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0923	Surface Coating of Large Appliances	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0924	Magnet Wire Coating	07/01/96	08/01/97 62 FR 41277.	
Sect. .0925	Petroleum Liquid Storage	12/01/89	06/23/94 59 FR 32365.	
Sect. .0926	Bulk Gasoline Plants	07/01/96	08/01/97 62 FR 41277.	
Sect. .0927	Bulk Gasoline Terminals	07/01/96	08/01/97 62 FR 41277.	
Sect. .0928	Gasoline Service Stations Stage I	07/01/96	08/01/97 62 FR 41277.	
Sect. .0930	Solvent Metal Cleaning	03/01/91	06/23/94 59 FR 32365.	
Sect. .0931	Cutback Asphalt	12/01/89	06/23/94 59 FR 32365.	
Sect. .0932	Gasoline Truck Tanks and Vapor Collection Systems.	07/01/95	02/01/96 62 FR 3589.	
Sect. .0933	Petroleum Liquid Storage in External Floating Roof Tanks.	07/01/95	02/01/96 62 FR 3589.	
Sect. .0934	Coating of Miscellaneous Metal Parts and Products.	07/01/96	08/01/97 62 FR 41277.	
Sect. .0935	Factory Surface Coating of Flat Wood Paneling.	07/01/96	08/01/97 62 FR 41277.	
Sect. .0936	Graphic Arts	12/01/89	06/23/94 59 FR 32365.	
Sect. .0937	Manufacture of Pneumatic Rubber Tires.	07/01/96	08/01/97 62 FR 41277.	
Sect. .0938	Perchloroethylene Dry Cleaning System.	12/01/89	06/23/94 59 FR 32365.	
Sect. .0939	Determination of Volatile Organic Compounds Emissions.	07/01/88	1/16/90 55 FR 1420.	
Sect. .0940	Determination of Leak Tightness and Vapor Leaks.	07/01/88	1/16/90 55 FR 1420.	
Sect. .0941	Alternative Method for Leak Tightness	03/01/91	06/23/94 59 FR 32365.	
Sect. .0942	Determination of Solvent in Filter Waste.	07/23/80	08/27/81 46 FR 43137.	
Sect. .0943	Synthetic Organic Chemical and Polymer Manufacturing.	03/01/91	06/23/94 59 FR 32365.	
Sect. .0944	Manufacture of Polyethylene Polypropylene, and Polystyrene.	03/14/85	11/19/86 51 FR 41786.	
Sect. .0945	Petroleum Dry Cleaning	03/14/85	11/19/86 51 FR 41786	
Sect. .0947	Manufacture of Synthesized Pharmaceutical Products.	07/01/94	05/05/95 60 FR 22284.	
Sect. .0948	VOC Emissions From Transfer Operations.	07/01/94	05/05/95 60 FR 22284.	
Sect. .0949	Storage of Miscellaneous Volatile Organic Compounds.	07/01/94	05/05/95 60 FR 22284.	
Sect. .0950	Interim Standards for Certain Source Categories.	05/01/95	02/01/96, 62 FR 3589.	
Sect. .0951	Miscellaneous Volatile Organic Compound Emissions.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0952	Petition for Alternative Controls	05/01/95	02/01/96, 62 FR 3589.	
Sect. .0953	Vapor Return Piping for Stage II Vapor Recovery.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0954	Stage II Vapor Recovery	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0955	Thread Bonding Manufacturing	04/01/95	02/01/96, 62 FR 3589.	
Sect. .0956	Glass Christmas Ornament Manufacturing.	04/01/05	02/01/96, 62 FR 3589.	
Sect. .0957	Commercial Bakeries	04/01/95	02/01/96, 62 FR 3589.	
	Section .1000 Motor Vehicle Emissions Control Standards			
Sect. .1001	Purpose	12/01/82	06/02/95, 60 FR 28726.	
Sect. .1002	Applicability	07/01/94	06/02/95, 60 FR 28726.	
Sect. .1003	Definitions	12/01/82	06/02/95, 60 FR 28726.	
Sect. .1004	Emission Standards	07/01/93	06/02/95, 60 FR 28726.	
Sect. .1005	Measurement and Enforcement	04/01/91	06/02/95, 60 FR 28726.	
	Section .1300 Oxygenated Gasoline Standard			
Sect. .1301	Purpose	09/01/92	06/30/94, 59 FR 32365.	
Sect. .1302	Applicability	09/01/92	06/30/94, 59 FR 32365.	
Sect. .1303	Definitions	09/01/92	06/30/94, 59 FR 32365.	
Sect. .1304	Oxygen Content Standard	09/01/92	06/30/94, 59 FR 32365.	

EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
Sect. .1305	Measurement and Enforcement	09/01/92	06/30/94, 59 FR 32365.	
	Section .1900 Open Burning			
Sect. .1901	Purpose, Scope, and Impermissible Open Burning.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .1902	Definitions	07/01/96	08/01/97, 62 FR 41277.	
Sect. .1903	Permissible Open Burning Without a Permit.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .1904	Air Curtain Burners	07/01/96	08/01/97, 62 FR 41277	
	Subchapter 2Q Air Quality Permits			
	Section .0100 General Provisions			
Sect. .0101	Required Air Quality Permits	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0102	Activities Exempted From Permit Requirements.	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0103	Definitions	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0105	Copies of Referenced Documents	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0106	Incorporation by Reference	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0107	Confidential Information	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0108	Delegation of Authority	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0109	Compliance Schedule for Previously Exempted Activities.	07/01/96	08/01/97, 62 FR 41277.	
Sect. .0110	Retention of Permit at Permitted Facility.	08/15/94	02/01/96, 61 FR 3584.	
Sect. .0111	Applicability Determinations	08/15/94	02/01/96, 61 FR 3584	
	Section .0200 Permit Fees			
Sect. .0207	Annual Emissions Reporting	07/01/96	08/01/97, 62 FR 41277.	
	Section .0300 Construction and Operating Permits			
Sect. .0301	Applicability	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0303	Definitions	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0304	Applications	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0305	Application Submittal Content	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0306	Permits Requiring Public Participation	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0307	Public Participation Procedures	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0308	Final Action on Permit Applications	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0309	Termination, Modification and Revocation of Permits.	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0310	Permitting of Numerous Similar Facilities.	07/01/94	07/28/95, 60 FR 38710.	
Sect. .0311	Permitting of Facilities at Multiple Temporary Sites.	07/01/96	08/01/97, 62 FR 41277.	
	Section .0600 Transportation Facility Procedures			
Sect. .0601	Purpose of Section and Requirement for Permit.	07/01/94	2/01/96, 61 FR 3586.	
Sect. .0602	Definitions	07/01/94	2/01/96, 61 FR 3586.	
Sect. .0603	Applications	07/28/97	12/31/98, 63 FR 72193.	
Sect. .0604	Public Participation	07/01/94	2/01/96, 61 FR 3586.	
Sect. .0605	Delegation of Authority	07/01/94	2/01/96, 61 FR 3586.	
Sect. .0606	Termination, Modification and Revocation of Permits.	07/01/94	2/01/96, 61 FR 3586.	
	Section .0800 Exclusionary Rules			
Sect. .0801	Purpose and Scope	08/01/95	09/20/96, 61 FR 49418.	
Sect. .0802	Gasoline Servicing Stations and Dispensing Facilities.	08/01/95	09/20/96, 61 FR 49418.	
Sect. .0803	Coating, Solvent Cleaning, Graphic Arts Operations.	07/28/97	12/31/98, 63 FR 72193.	
Sect. .0804	Dry Cleaning Facilities	08/01/95	09/20/96, 61 FR 49418.	
Sect. .0805	Grain Elevators	08/01/95	09/20/96, 61 FR 49418.	
Sect. .0806	Cotton Gins	08/01/95	09/20/96, 61 FR 49418.	
Sect. .0807	Emergency Generators	08/01/95	09/20/96, 61 FR 49418.	

[FR Doc. 99–12588 Filed 5–19–99; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 17 and 87

[WT Docket No. 96–211, FCC 99–40]

Use of 112–118 MHz for Differential Global Positioning System (GPS) Correction Data and the Use of Hand-Held Transmitters on Frequencies in the Aeronautical Enroute Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Report and Order (R&O)* amends the Commission's rules regarding the use of 112–118 MHz for differential Global Positioning System (GPS) correction data, the use of hand-held transmitters on frequencies in the Aeronautical Enroute Service, and to update Part 17 of our rules to incorporate by reference two recently revised FAA Advisory Circulars. These amendments were adopted in response to petitions for rule making filed by the Federal Aviation Administration and the Aeronautical Radio, Inc. The effect of these amendments would increase aircraft and airport safety and facilitate the efficient use of aeronautical radio spectrum.

DATES: These regulations are effective May 20, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of Federal Register May 20, 1999.

FOR FURTHER INFORMATION CONTACT: James Shaffer of the Commission's Wireless Telecommunications Bureau at (202) 418–0680 or via email at mayday@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *R&O*, FCC 99–40, adopted February 25, 1999, and released March 3, 1999. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 246, 1919 M Street N.W. Washington, D.C. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 1231 20th St. N.W., Washington, D.C. 20036, telephone (202) 857–3800.

Summary of R&O

1. This *R&O* amends Part 87 of our rules to permit aeronautical ground stations to use frequencies in the 112–118 MHz band to transmit differential Global Positioning System (GPS) information to aircraft equipped to use advanced landing systems in response to a petition for rule making filed by the Federal Aviation Administration (FAA). This *R&O* also allows the use of hand-held radios for direct communications between ground service personnel and flight crews on frequencies allocated to the Aeronautical Enroute Service in response to a petition for rule making filed by Aeronautical Radio, Inc. (ARINC). Finally, this *R&O* updates part 17 of our rules to incorporate by reference two recently revised FAA Advisory Circulars. The actions will increase the safety and efficiency of aircraft navigation and movement of aircraft in and around airports. Further, these amends should promote the use of new radio technologies beneficial to aircraft without allocating additional spectrum.

Administrative Matters

Final Regulatory Flexibility Analysis

2. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the *Notice of Proposed Rule Makings* WT Docket 96–1 and WT Docket 96–211.[1] The Commission sought written public comments on the proposals in the *Unicom NPRM* and *Aviation Safety NPRM*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996.[2]

I. Need for and Objective of the Proposed Rules

3. Our objective is to improve safety in air navigation by increasing pilots' access to advisory information, promoting the use of satellite technology for the precision landing of aircraft and allowing ground crews to communicate with aircraft on aeronautical enroute frequencies, and to incorporate by reference two recently revised FAA Advisory Circulars. The *Report and Order* in this proceeding modified the Commission's rules to increase the safety and efficiency of aircraft navigation and movement of aircraft in and around airports.

4. The public interest is served by modifying our rules to permit the operation of aeronautical advisory stations (unicoms) in an unattended, automated mode, allow aeronautical ground stations to transmit differential GPS augmentation data to aircraft, allow the use of mobile radios for direct communications between ground service personnel and flight crews on Aeronautical Enroute Service frequencies and incorporate, by reference, two FAA Advisory Circulars.

II. Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

5. No comments were submitted in direct response to the IRFA. We have, however, reviewed general comments that may impact small businesses.

6. Much of the impact will be on small businesses that use, manufacture, design, import, or sell equipment, and will increase safety and efficiency at airports by allowing new uses and technologies for the purpose of communicating important information for flight and ground safety. Commenters submitted suggestions to improve the technical and operational criteria of the proposals. This *Report and Order* directly benefits small businesses by providing smaller airports that do not have sufficient resources to staff a unicom station with an automated and economically viable alternative to provide important advisory information, providing airports with satellite technology for the precision landing of aircraft to facilitate approaches and landings in poor weather conditions, and improving the safe ground operations at airports and improve the provision of services and supplies to aircraft on the ground. These actions should increase the safety and efficiency of aircraft navigation and movement of aircraft in and around airports.

III. Description and Estimate of the Number of Small Entities to Which the Rules Apply

7. The rules adopted in this *Report and Order* will affect small businesses that use, manufacture, design, import, sell, or use aviation equipment designed for an automated unicom, a GPS augmentation system operating in the 112–118 MHz band, and mobile radios

[1] Amendment of Part 87 of the Commission's Rules to Permit Automatic Operation of Aeronautical Advisory Stations (Unicoms), WT Docket 96–1, *Notice of Proposed Rule Making,* 11 FCC Rcd 1084 (1996), 61 FR 8905, (March 6, 1996), (Unicom NPRM); Amendment of part 87 to Permit the Use of 112–118 MHz for Differential Global Positioning System (GPS) Correction Data and the Use of Hand-held Transmitters on Frequencies in the Aeronautical Enroute Service and Amendment of Part 17 Concerning Construction, Marking, and Lighting of Antenna Structures, WT Docket No. 96–211, *Notice of Proposed Rule Making,* 11 FCC Rcd 15391 (1996), 61 FR 60673, (November 29, 1996), (*Aviation Safety NPRM*).

[2] 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'' (SBREFA), *codified at* 5 U.S.C. 601 *et seq.*

used for direct communications between ground service personnel and flight crews on Aeronautical Enroute Service frequencies. There are no Commission-imposed requirements, however, for any entity to use these products.

Estimates for Unicoms

8. The unicom service provides for air-ground communications primarily between general aviation aircraft and airport facilities. Unicom transmissions are limited to the necessities of safe and expeditious operation of aircraft, including runway conditions, types of fuel available, wind conditions, weather information, dispatching, and other necessary safety information. Unicom transmissions may include, on a secondary basis, communications pertaining to the efficient portal-to-portal transit of an aircraft, such as available ground transportation, food, and lodging. Unicoms must provide impartial information concerning available ground services, and must provide service to any aircraft station upon request and without discrimination. For the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (SBA), each licensee would need to be evaluated within its own business area.

9. Because the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small entities that are unicoms. Therefore, the Commission is unable at this time to determine the number of small businesses which could be impacted by the rules. However, the Commission's data indicates that there were 2775 unicoms licensees operating at the end of October 1996. Further, because any entity engaged in providing unicom service is eligible to hold a unicom license, these rules could potentially impact every small business involved in aviation. Additionally, there are small businesses that will manufacture, design, import, or sell equipment. We concluded that these small businesses are classified in Communications Equipment, N.E.C., (Standard Identification Code 3669) as entities employing less than 750 employees as defined in 13 CFR 121.201. The size data provided by the SBA shows that 469 firms out of 498 firms in the Communications Equipment, N.E.C. classification have less than 750 employees but did not enable us to make a meaningful estimate of the number of potential manufacturers which are small businesses.[3]

Estimates for Differential GPS

10. Differential GPS is ground reference stations licensed to private entities using unassigned VOR frequencies in the 112–118 MHz band to transmit differential GPS augmentation data to aircraft to improve safety in approach and landing of aircraft. For the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (SBA), each licensee would need to be evaluated within its own business area. Additionally, there are small businesses that will manufacture, design, import, or sell equipment. We concluded that these small businesses are classified in Communications Equipment, N.E.C., (Standard Identification Code 3669) as entities employing less than 750 employees as defined in 13 CFR 121.201. We invited comment on whether this is the correct definition to use, but received no comment on this issue. The size data provided by the SBA shows that 469 firms out of 498 firms in the Communications Equipment, N.E.C. classification have less than 750 employees but did not enable us to make a meaningful estimate of the number of potential GPS manufacturers which are small businesses.[4] However, based on information from the U.S. GPS Industry Council we estimate that this would include approximately 110 small businesses that would be affected by this proposed rule change.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rules

11. There are several reporting, recordkeeping, and compliance requirements applicable to the Commission licensees and equipment manufacturers. These new requirements are necessary to minimize radiofrequency interference of the equipment, and to specify the responsibilities in operating unicom.

(1) In order to facilitate operation of aviation equipment, these rules may have significant economic impact on a substantial number of small businesses. Prior to marketing aviation equipment in the U.S., a manufacturer must have the unit type accepted by the Commission under the technical criteria set forth in the Commission's Rules. In order to have a unit type accepted, a small entity would have to test the radio equipment and provide clerical support to file the requisite FCC application forms. Both of these functions could be handled by a third party. We estimate that the initial cost to the manufacturer to meet this requirement, if done by a third party, is $900 to test the equipment and complete the filing information, and would require the electronic engineering professional skills. Additionally, there would be a $425 equipment authorization fee to file the application for type acceptance. These costs are one time costs to type accept the equipment and assure that interference to other radio users is minimized.

(2) In order to clarify the responsibilities in operating unicoms, we require all unicom licensees at airports having more than one unicom to jointly sign a letter of agreement, prior to the operation of a unicom in automatic mode at such an airport, stating the name(s) of the licensee(s) who will control the automatic unicom and, if applicable, how control of the automatic unicom will be divided. A copy of the agreement must be kept with each licensee's station authorization. We estimate that approximately 50 licensees will require 0.7 hours to prepare and file the agreement required.

V. Steps Taken by Agency To Minimize Significant Economic Impact on Small Entities Consistent With Stated Objectives

12. The rules would require differential GPS transmitters to be type accepted in accordance with the technical criteria set forth in part 87 subpart D of our rules, in lieu of the more exacting specifications contained in RTCA Document No. DO–217. This flexible approach promotes technological innovations in differential GPS equipment so long as such equipment is compatible with the National Airspace System. Under our present treatment of transmitters operating in the 108–137 MHz band, the FAA is given a 21-day period to object to any application for type acceptance that would adversely affect the performance of the National Airspace System. The rules also take measures to expedite coordination procedures between applicants, the FAA, and the Commission concerning the assignment of a frequency and time slot for differential GPS ground stations. In order to reduce administrative burdens on both the public and the Commission,

[3] U.S. Small Business Administration 1992 Economic Census Industry and Enterprise Report, Table 1D, SIC Code 3669, (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

[4] U.S. Small Business Administration 1992 Economic Census Industry and Enterprise Report, Table 1D, SIC Code 3669, (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

we permit mobile units in the aeronautical enroute service to operate under the same authorization and call sign as the associated aeronautical enroute station. This approach would eliminate the need for aviation service organizations to submit forms and fees to the Commission. These decisions benefit small entities and give them an opportunity to provide recommendations to further improve the impact and processes.

VI. Report to Congress

13. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with the Report and Order, in a report to Congress pursuant to the SBREFA.[5] A copy of this FRFA will also be published in the **Federal Register**.

Ordering Clauses

14. Accordingly, *it is ordered* that, pursuant to the authority of Sections 4(i), 303(r), 307(e), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 307(e) and 332(a)(2), parts 80 and 87 of the Commission's Rules, 47 CFR Parts 17 and 87 *are amended* as set forth in the Rule Changes, effective May 20, 1999.

15. *It is further ordered* that these proceedings are *terminated*.

List of Subjects

47 CFR Part 17

Antenna, Aviation safety, Communications equipment, Incorporation by reference, Radio.

47 CFR Part 87

Aviation safety, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 17 and 87 as follows:

PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

1. The authority citation for Part 17 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 309 48 Stat. 1081, 1085 as amended, 47 U.S.C. 301, 309.

2. Section 17.23 is revised to read as follows:

§ 17.23 Specifications for painting and lighting antenna structures.

Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of ''no hazard,'' as referenced in the following FAA Advisory Circulars: AC 70/7460–1J, ''Obstruction Marking and Lighting,'' effective January 1, 1996, and AC 150/5345–43E, ''Specification for Obstruction Lighting Equipment,'' dated October 19, 1995. These documents are incorporated by reference in accordance with 5 U.S.C. 552(a). The documents contain FAA recommendations for painting and lighting structures which pose a potential hazard to air navigation. For purposes of this part, the specifications, standards, and general requirements stated in these documents are mandatory. The Advisory Circulars listed are available for inspection at the Commission Headquarters in Washington, DC, or may be obtained from Department of Transportation, Property Use and Storage Section, Subsequent Distribution Office, M483.6, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, MD 20785, telephone (301) 322–4961, facsimile (301) 386–5394. Copies are also available for public inspection at the Office of the Federal Register, 800 North Capitol Street, Suite 700, Washington, D.C.

PART 87—AVIATION SERVICES

3. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended, 47 U.S.C. 151–156, 301–609.

4. Section 87.5 is amended by revising the definition of ''automatic weather observation station'' to read as follows:

§ 87.5 Definitions.

* * * * *

Automatic weather observation station (AWOS) or automatic surface observation station (ASOS). A land station located at an airport and used to automatically transmit weather information to aircraft.

* * * * *

5. Section 87.131 is amended by adding a footnote to Aeronautical advisory entry and adding to the end of the table, an entry for Differential GPS to read as follows:

§ 87.131 Power and emissions.

* * * * *

Class of station	Frequency band/frequency	Authorized emission(s) [9]	Maximum power [1]
Aeronautical advisory	VHF	A3E	10 watts.[10]
* * * * *	*		*
Differential GPS	VHF	G7D	Various.[2]

[1] The power is measured at the transmitter output terminals and the type of power is determined according to the emission designator as follows:

(i) Mean power (pY) for amplitude modulated emissions and transmitting both sidebands using unmodulated full carrier.

(ii) Peak envelope power (pX) for all emission designators other than those referred to in paragraph (i) of this note.

[2] Power and antenna height are restricted to the minimum necessary to achieve the required service.

* * * * * * *

[9] Excludes automatic link establishment.

[10] Power is limited to 0.5 watt, but may not exceed 2 watts when station is used in an automatic unattended mode.

6. Section 87.133 is amended by adding to the table in paragraph (a) in the (5) Band-100 to 137 MHz: entry, an entry for Differential GPS to read as follows:

§ 87.133 Frequency stability.

(a) * * *

[5] *See* 5. U.S.C. 801(a)(1)(A).

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations	Tolerance [1]	Tolerance [2]
* * * * * * *		
(5) Band-100 to 137 MHz:		
* * * * * * *		
Differential GPS		2
* * * * * * *		

[1] This tolerance is the maximum permitted until January 1, 1990, for transmitters installed before January 2, 1985, and used at the same installation. Tolerance is indicated in parts in 10^6 unless shown as Hertz (Hz).

[2] This tolerance is the maximum permitted after January 1, 1985 for new and replacement transmitters and to all transmitters after January 1, 1990. Tolerance is indicated in parts in 10^6 unless shown as Hertz (Hz).

* * * * *

7. Section 87.137 is amended by adding to the table in paragraph (a) in its alphabetical order, an entry for G7D to read as follows:

§ 87.137 Types of emission.

(a) * * *

Class of emission	Emission designator	Authorized bandwidth (kilohertz)		
		Below 50 MHz	Above 50 MHz	Frequency deviation
* * * * * * *				
G7D	14K0G7D		25	
* * * * * * *				

8. Section 87.139 is amended by revising the introductory text in paragraph (a), and paragraph (j) to read as follows:

§ 87.139 Emission limitations.

(a) Except for ELTs and when using single sideband (R3E, H3E, J3E), or frequency modulation (F9) or digital modulation (F9Y) for telemetry or telecommand in the frequency bands 1435–1535 MHz and 2310–2390 MHz or digital modulation (G7D) for differential GPS, the mean power of any emission must be attenuated below the mean power of the transmitter (pY) as follows:

* * * * *

(j) When using G7D for differential GPS in the 112–118 MHz band, the amount of power during transmission under all operating conditions when measured over a 25 kHz bandwidth centered on either of the second adjacent channels shall not exceed −25 dBm and shall decrease 5 dB per octave until −52 dBm.

9. Section 87.171 is amended by adding in its alphabetical order the symbol and class of station for DGP to read as follows:

§ 87.171 Class of station symbols.

* * * * *

DGP—Differential GPS.

* * * * *

10. Section 87.173 is amended by adding in numeric order the listing 112–118 MHz to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) * * *

Frequency or frequency band	Subpart	Class of station	Remarks
* * * * *	*	*	*
112–118 MHz	Q	DGP	Differential GPS.
* * * * *	*	*	*

11. Section 87.187 is amended by revising paragraph (y) introductory text and the introductory text of paragraph (y)(4) to read as follows:

§ 87.187 Frequencies.

* * * * *

(y) Brief keyed RF signals (keying the transmitter by momentarily depressing the microphone ''push-to-talk'' button) may be transmitted from aircraft for the control of automated unicoms on the unicom frequencies listed in paragraph (y)(3) of this section, or for the control of airport lights on the following frequencies:

* * * * *

(4) Aviation support station frequencies listed in § 87.323(b): * * *

* * * * *

12. A new § 87.219 is added to Subpart G to read as follows:

§ 87.219 Automatic operations.

(a) A station operator need not be present when an automated unicom is in operation.

(b) Unicoms operating in an automated mode must comply with the requirements of paragraphs (1)–(5) of this section, in addition to the requirements applicable to non-automated unicom operations.

(1) An automated unicom must transmit only in response to interrogating signals from aircraft,

including but not limited to the brief keyed RF signals specified in § 87.187(y).

(2) An automated unicom must monitor the unicom frequency prior to transmission, and provide a brief delay between the aircraft's interrogating signal and the automatic unicom's response.

(3) Automated advisory transmissions must be as brief as possible, and must never exceed one minute in length.

(4) An automated unicom may not provide weather information at an airport that has an operational, FAA-certified, automatic weather facility, unless the unicom itself is certified by the FAA.

(5) If weather information is provided by an automated unicom:

(i) weather sensors must be placed in order to adequately represent the weather conditions at the airport(s) to be served;

(ii) the weather information must be proceeded by the word ''advisory;''

(iii) the phrase ''automated advisory'' must be included when the weather information was gathered by real-time sensors or within the last minute; and,

(iv) the time and date of the last update must be included when the weather information was not gathered within the last minute.

(c) Only one automated unicom may be operated at an uncontrolled airport. Prior to the operation of an automated unicom at an airport with more than one unicom licensee, all of the licensees at that airport must sign a letter of agreement stating which licensee(s) control the automated unicom operations, and, if control is to be shared among several operators, how that control will be divided or scheduled. The original or a copy of the letter of agreement must be kept with each licensees' station records. Within 90 days of the date upon which a new unicom operator is licensed at an airport where more than one unicom is authorized, and an automated unicom is being operated, an amended letter of agreement that includes the new licensee's signature must be signed or automated unicom operations must cease.

13. Section 87.261 is amended by adding paragraphs (e) and (f) to read as follows:

§ 87.261 Scope of service.

* * * * *

(e) Mobile units may be operated under an aeronautical enroute station authorization so long as the units are limited to use at an airport and are only used to communicate with aircraft on the ground or the associated aeronautical enroute station. Mobile units are further limited to operation on the VHF frequencies listed in 87.263(a)(1).

(f) Mobile units licensed under paragraph (e) of this section shall not be operated on air traffic control frequencies, nor cause harmful interference to, communications on air traffic control frequencies.

14. Section 87.419 is revised to read as follows:

§ 87.419 Supplemental eligibility.

Only one control tower or RCO will be licensed at an airport.

15. Section 87.475 is amended by adding paragraph (e) to read as follows:

§ 87.475 Frequencies.

* * * * *

(e) *Frequencies available for differential GPS stations.* Frequencies in the 112–118 MHz band may be assigned to Special Category I (SCAT–I) ground stations for differential GPS data links.

(1) The frequencies available are on 25 kHz centers with the lowest assignable frequency being centered at 112.000 MHz and the highest assignable frequency being centered at 117.950 MHz.

(2) Applicants must coordinate a frequency, time slot assignment, and three-letter identifier with the FAA and provide this information to the Commission upon application.

16. Subpart S is amended by revising the heading to read as follows:

Subpart S—Automatic Weather Stations (AWOS/ASOS)

17. Section 87.525 is revised to read as follows:

§ 87.525 Scope of service.

Automatic weather observation stations (AWOS) and automatic surface observation stations (ASOS) must provide up-to-date weather information including the time of the latest weather sequence, altimeter setting, wind speed and direction, dew point, temperature, visibility and other pertinent data needed at airports having neither a full-time control tower nor a full-time FAA Flight Service Station. When a licensee has entered into an agreement with the FAA, an AWOS or an ASOS may also operate as an automatic terminal information station (ATIS) during the control tower's operating hours.

18. Section 87.527 is amended by revising paragraphs (b) and (c) to read as follows:

§ 87.527 Supplemental eligibility.

* * * * *

(b) Eligibility for an AWOS, an ASOS, or an ATIS is limited to the owner or operator of an airport or to a person who has entered into a written agreement with the owner or operator for exclusive rights to operate and maintain the station. Where applicable a copy of the agreement between the applicant and owner or operator of the airport must be submitted with an application.

(c) Only one AWOS, ASOS, or ATIS will be licensed at an airport.

19. Section 87.529 is amended by revising the fourth and fifth sentences to read as follows:

§ 87.529 Frequencies.

* * * Normally, frequencies available for air traffic control operations set forth in subpart E will be assigned to an AWOS, ASOS, or to an ATIS. When a licensee has entered into an agreement with the FAA to operate the same station as both an AWOS and as an ATIS, or as an ASOS and an ATIS, the same frequency will be used in both modes of operation.

[FR Doc. 99–12173 Filed 5–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 051299E]

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the second seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 18, 1999, until 1200 hours, A.l.t., September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone

according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), for the second season, the period May 18, 1999, through August 31, 1999, as 15 metric tons. The other hook-and-line fishery includes all groundfish, except sablefish and demersal shelf rockfish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries other than sablefish or demersal shelf rockfish in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the second seasonal apportionment of the 1999 Pacific halibut bycatch mortality allowance specified for the groundfish fisheries other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The second seasonal bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been reached. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: May 14, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–12748 Filed 5–17–99; 3:39 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 97
Thursday, May 20, 1999

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

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 1999–7]

Definition of ''Express Advocacy''

AGENCY: Federal Election Commission.

ACTION: Notice of Disposition of Petition for Rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking filed on January 11, 1999 by James Bopp, Jr., and the James Madison Center for Free Speech on behalf of the Virginia Society for Human Life. The petition urged the Commission to revise its definition of ''express advocacy'' to reflect certain recent court decisions on this issue. In a pair of 3–3 vote decisions, the Commission declined to act on this Petition.

DATES: April 29, 1999.

FOR FURTHER INFORMATION CONTACT: N. Bradley Litchfield, Associate General Counsel, or Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On January 11, 1999, the Commission received a Petition for Rulemaking from James Bopp, Jr., and the James Madison Center for Free Speech on behalf of the Virginia Society for Human Life. The Petition urged the Commission to revise the definition of ''express advocacy'' set forth at 11 CFR 100.22 by repealing paragraph 100.22(b). The challenged paragraph defines ''express advocacy'' to include communications in which the electoral portion is ''unmistakable, unambiguous, and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other action.''

The Commission published a Notice of Availability on the Petition on February 3, 1999, 64 *FR* 5200, and received six comments in response. The Commission received comments from the Brennan Center for Justice; Common Cause; Craig A. Dimitri; the Free Speech Coalition, Inc.; Cleta Mitchell, on behalf of the First Amendment Project of the Americans Back in Charge Foundation; the National Citizens Legal Network; and William Westmiller.

On April 29, 1999, the Commission voted 3–3 on two motions involving this Petition. The first 3–3 vote decision came on a motion to adopt the Office of General Counsel's recommendation that the Commission decline to open a rulemaking in response to the Petition, and the second on a motion to direct the Office of General Counsel to open the requested rulemaking. Since neither motion received the affirmative vote of four members of the Commission, the Commission is announcing that no further action on the Petition will be taken at this time. *See* 2 U.S.C. 437(c).

Dated: May 14, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–12663 Filed 5–19–99; 8:45 am]
BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM157; Notice No. 25–99–05–SC]

Special Conditions: Boeing Model 767–400ER Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed special conditions.

SUMMARY: This document proposes special conditions for the Boeing Model 767–400ER airplane. This airplane will have a novel or unusual design feature associated with sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before July 6, 1999.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket (ANM–7), Docket No. NM157, 1601 Lind Avenue SW, Renton, Washington, 98055–4056, or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: NM157. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2011; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice 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. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to NM157.'' The postcard will be date stamped and returned to the commenter.

Background

On January 14, 1997, Boeing Commercial Airplane Group applied for an amendment to Type Certificate No. A1NM to include the new Model 767–400ER airplane, a derivative of the Model 767–200/–300 series airplanes. The Model 767–400ER airplane is a swept-wing, conventional-tail, twin-

engine, turbofan-powered transport. The airframe has been strengthened to accommodate the increased design loads and weights. The airplane has a seating capacity of up to 375, and a maximum takeoff weight of 450,000 pounds (204,120 Kg). Each engine will be capable of delivering 62,000 pounds of thrust. The flight controls are unchanged beyond those changes deemed necessary to accommodate the stretched configuration.

Type Certification Basis

Under the provisions of 14 CFR § 21.101, Boeing must show that the Model 767–400ER airplane meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1NM, or the applicable regulations in effect on the date of application for the change to the Model 767–400ER. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A1NM include 14 CFR part 25, as amended by Amendments 25–1 through 25–45 with a few exceptions, and certain other later amended sections of part 25 that are not relevant to these special conditions. In addition, Boeing has chosen to comply with the applicable regulations in effect on January 14, 1997; specifically part 25 as amended by Amendments 25–1 through 25–89 and certain other earlier amended sections of part 25 that are not relevant to these special conditions. Three exemptions have been granted. These special conditions form an additional part of the type certification basis.

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 Boeing Model 767–400ER airplane 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 Model 767–400ER airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of 14 CFR part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification.

Special conditions, as appropriate, are issued in accordance with 14 CFR § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), 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 the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The engine proposed for the Boeing Model 767–400ER airplane will incorporate the unusual design feature of a high-bypass ratio fan jet engine that will not seize and produce transient torque loads in the same manner that is envisioned by current § 25.361(b)(1) related to ''sudden engine stoppage.''

Discussion

For the engine proposed for the Model 767–400ER airplanes, the limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines has changed considerably from those envisioned in 14 CFR § 25.361(b) when the engine seizure requirement was first adopted. Engines have grown much larger and are now designed with large bypass fans capable of producing much higher torque loads if they become jammed.

Relative to the engine configuration that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of a special condition to establish appropriate design standards. The latest generation of jet engines is capable of producing engine seizure torque loads that are significantly higher than previous generations of engines.

The FAA is developing a new regulation and a new advisory circular that will provide more comprehensive criteria for treating engine torque loads resulting from sudden engine stoppage. In the meantime, a special condition is needed to establish appropriate criteria for the Boeing Model 767–400ER airplane.

Limit Engine Torque Loads for Sudden Engine Stoppage

In order to maintain the level of safety envisioned by § 25.361(b), more comprehensive criteria are needed for the new generation of high bypass engines. These special conditions distinguish between the more common seizure events and those rare seizure events resulting from structural failures in the engine. For these more rare but severe seizure events, the criteria would allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by applying a higher factor of safety to the maximum torque load imposed by sudden engine stoppage due to a structural failure.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 767–400ER. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating 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 one model series of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

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 Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 767–400ER airplanes.

1. *Engine Torque Loads.* In lieu of compliance with § 25.361(b), compliance with the following special condition is proposed:

(a) For turbine engine and auxiliary power unit installations, the mounts and local supporting structure must be designed to withstand each of the following:

(1) The maximum torque load, considered as limit, imposed by:

(i) sudden deceleration of the engine due to a malfunction that could result in a temporary loss of power or thrust capability, and that could cause a shutdown due to vibrations; and

(ii) the maximum acceleration of the engine and auxiliary power unit.

(2) The maximum torque load, considered as ultimate, imposed by sudden engine or auxiliary power unit stoppage due to a structural failure, including fan blade failure.

(3) The load condition defined in paragraph (a)(2) of this section is also assumed to act on adjacent airframe structure, such as the wing and fuselage. This load condition is multiplied by a factor of 1.25 to obtain ultimate loads when the load is applied to the adjacent wing and fuselage supporting structure.

Issued in Renton, Washington, on May 7, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–12609 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–329–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Fokker Model F.28 Mark 0070 and 0100 series airplanes, that currently requires Airplane Flight Manual (AFM) and maintenance program revisions, modifications, and repetitive checks associated with ensuring the integrity of the thrust reverser system. That AD was prompted by results of a review, which indicated that a potential latent failure of the secondary lock actuator switch 1 of the thrust reverser system in the open position may occur, in addition to the potential failure of the secondary lock relay 1 in the energized position. This proposed AD would continue to require the modifications and repetitive checks, and would add an AFM revision, repetitive operational tests, and other modifications related to the thrust reverser system. The new modifications would terminate the repetitive operational checks and tests. The actions specified by the proposed AD are intended to ensure protection against inadvertent deployment of the thrust reversers during flight, which could result in reduced controllability of the airplane.

DATES: Comments must be received by June 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–329–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 20, 1996, the FAA issued AD 96–26–03, amendment 39–9866 (62 FR 604, January 6, 1997), applicable to all Fokker Model F.28 Mark 0070 and 0100 series airplanes, to require a revision to the Airplane Flight Manual (AFM) to enable the flightcrew to determine if the thrust reversers are properly stowed and locked prior to take-off. In addition, that AD requires a revision to the maintenance program to incorporate instructions to perform checks of the thrust reverser system and correct thrust reverser malfunctions. That AD also requires modifications that serve as terminating actions for the revisions to the AFM and maintenance program, and repetitive checks of the thrust reverser system. That action was prompted by results of a review, which indicated that a potential latent failure of the secondary lock actuator switch 1 of the thrust reverser system in the open position may occur, in addition to the potential latent failure of the secondary lock relay 1 in the energized position. The requirements of that AD are intended to ensure protection against inadvertent deployment of the thrust reversers during flight.

Actions Since Issuance of Previous Rule

In the preamble to AD 96–26–03, the FAA specified that the actions required by that AD were considered to be interim action and that the manufacturer would develop a modification to positively address the unsafe condition. The FAA indicated that it may consider further rulemaking action once a modification was developed, approved, and available. The manufacturer now has developed such a modification, and the FAA has determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination.

Relevant Service Information

Fokker has issued Service Bulletin SBF100–78–014, Revision 1, dated December 15, 1998, as revised by Change Notice 1, dated December 18, 1998, and Change Notices 2 and 3, both dated January 29, 1999. This service bulletin describes procedures for modification of the thrust reverser electrical control system and thrust reverser indication and warning system. This modification involves connecting both systems to the emergency direct current (DC) bus, and installing a new relay panel, relays, and electrical circuits.

Fokker also has issued Component Service Bulletins P41440–78–04 and P41440–78–05, both dated August 15, 1998, which describe procedures for modification of the aft engine cowlings. This modification involves removing the cover of the terminal block (for certain airplanes, a new cover must be installed), re-routing the electrical wiring of the terminal block (on the side of the thrust reverser), and installing a voltage spike protection diode assembly to the thrust reverser wiring.

In addition, Fokker 70/100 Airplane Maintenance Manual 78–32–01, dated June 1, 1998, describes procedures for repetitive operational tests of the pilot valve and piston seal for leakage of the selector valve of the thrust reversers.

Accomplishment of these service documents is intended to adequately address the identified unsafe condition. The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, classified these service bulletins as mandatory and issued Dutch airworthiness directive BLA 1996–140/2, dated August 31, 1998, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 96–26–03 to continue to require accomplishment of modifications of the wiring of the electrical control, and indication and warning systems of the thrust reversers, and repetitive operational checks of the thrust reverser system. This proposed AD would add requirements for a revision to the Abnormal Procedures section of the FAA-approved AFM to provide the flightcrew with operating procedures in the event that an unlocked thrust reverser alert occurs. This proposed AD also would require repetitive operational tests of the pilot valve and piston seal, for leakage of the selector valve of the thrust reversers. In addition, this proposed AD would require modification of the thrust reverser electrical control system and thrust reverser indication and warning system, and modification of the aft engine cowlings, which, when accomplished, would terminate the repetitive operational checks and tests. The actions would be required to be accomplished in accordance with the service documents described previously, except as discussed below.

Differences Between This Proposed AD and Service Information

Operators should note that the Fokker 70/100 Airplane Maintenance Manual does not specify corrective actions if any discrepancy is detected during any operational test of the pilot valve and piston seal for leakage of the selector valve of the thrust reversers. This proposal would require repair of any discrepancy to be accomplished in accordance with a method approved by either the FAA or the RLD (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the RLD would be acceptable for compliance with this proposed AD.

Cost Impact

There are approximately 131 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 96–26–03 take approximately 20 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $1,200 per airplane. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $314,400, or $2,400 per airplane.

The new AFM revision that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $7,860, or $60 per airplane.

The new operational tests that are proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the operational tests proposed by this AD on U.S. operators is estimated to be $7,860, or $60 per airplane, per test cycle.

The new modifications that are proposed in this AD action would take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $7,737 per airplane. Based on these figures, the cost impact of the modifications proposed by this AD on U.S. operators is estimated to be $1,092,147, or $8,337 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9866 (62 FR 604, January 6, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Fokker Services B.V.: Docket 98–NM–329–AD. Supersedes AD 96–26–03, Amendment 39–9866.

Applicability: All Model F.28 Mark 0070 and 0100 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure protection against inadvertent deployment of the thrust reversers during flight, which could result in reduced controllability of the airplane, accomplish the following:

Restatement of Certain Requirements of AD 96–26–03, Amendment 39–9866

(a) Within 60 days after January 21, 1997 (the effective date of AD 96–26–03, amendment 39–9866), modify the wiring of the electrical control, and indication and warning systems of the thrust reversers, in accordance with Fokker Service Bulletin SBF100–78–012, dated November 22, 1996.

(b) For Model F.28 Mark 0070 series airplanes: Prior to or in conjunction with the accomplishment of paragraph (a) of this AD, modify the wiring of the priority switching of the emergency inverter power supply in accordance with Fokker Service Bulletin SBF100–24–034, Revision 1, dated September 12, 1996.

(c) Within 500 flight cycles following accomplishment of paragraph (a) of this AD, perform operational checks to detect failures of the secondary lock actuator, primary lock switch, indication and warning system, and feedback cable mechanism of the thrust reversers in accordance with Fokker Service Bulletin SBF100–78–013, dated November 22, 1996. If any failure is detected, prior to further flight, repair the thrust reverser system in accordance with Chapter 78–30–00 of the Fokker Airplane Maintenance Manual. Repeat the operational checks thereafter at intervals not to exceed 500 flight cycles.

New Requirements of This AD

Airplane Flight Manual (AFM) Revision

(d) Within 3 months after the effective date of this AD, revise the Abnormal Procedures Section, Sub-section Engine, of the FAA-approved AFM to include the following information. This may be accomplished by inserting a copy of this AD in the AFM.

Reverser Unlocked Procedure on Ground (Except During Engine Start)

Reverser system.	Maintenance action required

Note: If alert occurs during engine start, recycle affected reverser after engine start.

In Flight

Note: If thrust lever is not blocked at idle and no pronounced buffet is present, normal operation of the aircraft may be continued, although alert may persist. After landing, maintenance action is required.

ATS	(Check) Disconnect
Affected thrust lever	(Check) Idle
Speed	Max 200 kts
Affected fuel lever	Shut
Single engine procedure.	Apply

Note: Descent below 1,000 feet AGL requires that the landing be completed.

Repetitive Tests

(e) Perform an operational test of the pilot valve and piston seal for leakage of the selector valve of the thrust reversers, in accordance with Fokker 70/100 Airplane Maintenance Manual 78–32–01, dated June 1, 1998, at the latest of the times specified in paragraphs (e)(1), (e)(2), and (e)(3) of this AD. If any discrepancy is detected, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the RLD (or its delegated agent). Repeat the operational test thereafter at intervals not to exceed 12,000 flight hours.

(1) For airplanes on which Fokker Service Bulletin SBF100–78–004, Revision 1, dated November 22, 1996, has been accomplished prior to the effective date of this AD: Within 12,000 flight hours after accomplishment of Fokker Service Bulletin SBF100–78–004, Revision 1, dated November 22, 1996.

(2) Within 6,000 flight hours after accomplishment of Fokker Service Bulletin SBF100–78–012, dated November 22, 1996.

(3) Within 500 flight hours after the effective date of this AD.

Terminating Modifications

(f) Within 18 months after the effective date of this AD, concurrently accomplish the requirements of paragraphs (f)(1) and (f)(2) of this AD. Accomplishment of these modifications constitutes terminating action for the repetitive operational checks and operational tests required by paragraphs (c) and (e) of this AD.

(1) Modify the thrust reverser electrical control system and thrust reverser indication and warning system, in accordance with Fokker Service Bulletin SBF100–78–014, Revision 1, dated December 15, 1998; as revised by Change Notice 1, dated December 18, 1998, and Change Notices 2 and 3, both dated January 29, 1999.

(2) Modify the aft engine cowlings in accordance with Fokker Component Service Bulletins P41440–78–04 and P41440–78–05, both dated August 15, 1998.

Spares

(g) As of the effective date of this AD, no person shall install on any airplane an aft engine cowling having part number 1159P41440, unless it has been modified in accordance with paragraph (f)(2) of this AD.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(h)(2) Alternative methods of compliance, approved previously in accordance with AD 96–26–03, amendment 39–9866 for accomplishment of paragraph (c) of that AD, are approved as alternative methods of compliance with paragraph (a) of this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Dutch airworthiness directive BLA 1996–140/2, dated August 31, 1998.

Issued in Renton, Washington, on May 13, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–12689 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–59–AD]

Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Eurocopter France Model AS332C, L, and L1 helicopters. This proposal would require replacing certain electrical modules with airworthy electrical modules. This proposal is prompted by the discovery of several defective electrical modules. The actions specified by the proposed AD are intended to prevent loss of electrical continuity, which could cause loss of critical systems and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–59–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–59–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–59–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS332C, L, and L1 helicopters. The DGAC advises of the discovery of malfunctions due to faulty ''CONNECTRAL'' modules on electrical circuits of a Super Puma AS332 helicopter.

Eurocopter France issued Service Bulletin No. 01.00.51, dated May 4, 1998 (S/B), for Model AS332C, L, and L1 helicopters. The S/B specifies inspecting and replacing each ''CONNECTRAL'' green electrical module manufactured from week 95/16 to week 96/21. The manufacturing code identifies the year and week of module production. The electrical modules identified by a white dot on the face are airworthy and do not need to be replaced. The DGAC classified this S/B as mandatory and issued AD No. 98–254–070(A), dated July 1, 1998, to ensure the continued airworthiness of these helicopters in France.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS332C, L, and L1 helicopters of the same type design registered in the United States, the proposed AD would require replacing each ''CONNECTRAL'' green electrical module that has a manufacturing code 95/16 through 96/21 engraved on a side with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996. Replacing the electrical modules identified with a white dot on the face is not required because the manufacturer has verified the proper functioning of these units.

The FAA estimates that three helicopters of U.S. registry would be affected by this proposed AD. It would take approximately 320 work hours per helicopter to replace all affected modules. The average labor rate is $60 per work hour. Required parts would cost approximately $23,484, but the helicopter manufacturer has stated that the parts will be provided at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $57,600 to replace all affected modules.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. 98–SW–59–AD.

Applicability: Model AS332C, L, and L1 helicopters, certificated in any category.

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

Compliance: Required within 300 hours time-in-service (TIS) or within the next 3 calendar months, whichever occurs first, unless accomplished previously.

To prevent loss of electrical continuity, which could cause loss of critical systems, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove and replace each ''CONNECTRAL'' green electrical module that does not have a white dot on the face and that has a manufacturing code 95/16 through 96/21 engraved on a side, with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996.

Note 2: Eurocopter France Service Bulletin No. 01.00.51, dated May 4, 1998, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 98–254–070(A), dated July 1, 1998.

Issued in Fort Worth, Texas, on May 12, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–12688 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Regulation of the Operation of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Public meeting and extension of comment period.

SUMMARY: On April 23, 1999, NOAA published a proposed rule and notice of availability of a Draft Environmental Assessment (DEA) restricting the use of motorized personal watercraft in the Gulf of the Farallones National Marine Sanctuary (FR Volume 64, Number 78, pages 19945–19952). The document announces the time and place of the public meeting and extends the comment period.

DATES: The public meeting will be held on Wednesday, June 2, 1999, from 7:00 until 9:00 p.m.

Comments on the proposed rule or DEA must be received by June 11, 1999.

ADDRESSES: The meeting will be held at the Bear Valley Visitors Center at the Point Reyes National Seashore, Inverness, California.

Comments should be sent to Ed Ueber, Sanctuary Manager, Gulf of the Farallones National Marine Sanctuary, Ft. Mason, Building 201, San Francisco, California 94123; fax: (415) 561–6616; email: ed.ueber@noaa.gov. Comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 561–6622.

SUPPLEMENTARY INFORMATION: The purpose of the public meeting is to provide the public with information regarding NOAA's proposed rule and to give the public the opportunity to provide NOAA with verbal or written comments.

NOAA proposes to amend the regulations governing the Gulf of the Farallones National Marine Sanctuary (Sanctuary) to prohibit the operation of motorized personal watercraft (MPWC) in the nearshore waters of the Sanctuary. Specifically, the operation of MPWC would be prohibited from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile), including seaward of the Farallon Islands. The proposed rule would ensure that Sanctuary resources and qualities are not adversely impacted and would help avoid conflicts among various users of the Sanctuary.

Federal Domestic Assistance Catalog Number 11.429

Marine Sanctuary Program

Dated: May 14, 1999.

Ted Lillestolen,

Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.

[FR Doc. 99–12711 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–129–FOR; State Program Amendment No. 98–2]

Indiana Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposes revisions to its rules concerning permitting, collateral bonds, performance bond release, and citizen's request for state inspections. The revisions mostly relate to public participation and administrative requirements. Indiana intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Indiana program and amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., e.s.t., June 21, 1999. If requested, we will hold a public hearing on the amendment on June 14, 1999. We will accept requests to speak at the hearing until 4:00 p.m., e.s.t. on June 4, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Indiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Indiana Department of Natural Resources, Bureau of Mine Reclamation, 402 West Washington Street, Room W–295, Indianapolis, Indiana 46204, Telephone: (317) 232-1291.

Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, Indiana 47438–9517, Telephone: (812) 665–2207.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Description of the Proposed Amendment

By letter dated May 7, 1999 (Administrative Record No. IND–1647), the Indiana Department of Natural Resources (IDNR) sent us an amendment to the Indiana program under SMCRA. The IDNR sent the amendment at its own initiative. The IDNR proposes to amend the Indiana Administrative Code (IAC) at 310 IAC 12–3, 12–4, and 12–6. Below is a summary of the changes proposed by Indiana. The full text of the proposed program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

1. 310 IAC 12–3–109 Permit Applications; Informal Conferences

Section 109 of the Indiana rules at 310 IAC 12–3 contains the administrative requirements and public participation aspects for informal conferences relating to permit applications.

a. The IDNR revised the first sentence of subsection (a) to read as follows:

> Any person having an interest that is or may be adversely affected by the decision on the application or an officer or a head of a federal, state, or local government agency or authority may request, in writing, that the director hold an informal conference on the application for a permit, significant revision to the permit, or renewal of a permit.

b. The IDNR revised subsection (a)(3) to require a person requesting an informal conference to file the request with the director of IDNR no later than thirty (30) days after the last publication of the newspaper advertisement required under section 106(a) of this rule.

c. The IDNR revised subsection (b)(1) to require that the informal conference be held in the locality of the proposed surface coal mining and reclamation operation if requested under subsection (a)(2).

d. The IDNR revised subsection (b)(2) to require the director of IDNR to send the date, time, and location of the informal conference to the applicant and other parties to the conference. The director must also advertise this information in a newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least two weeks before the scheduled conference.

e. The IDNR revised subsection (b)(3) to allow the director of IDNR to arrange with the applicant ''access to the proposed permit area, and, to the extent that the applicant has the right to grant access to it, to the adjacent area prior to the established date of the conference.''

f. The IDNR added the following new sentence to subsection (b)(4):

> The requirements of IC 4–21.5–3 shall not apply to the conduct of the informal conference.

g. The IDNR revised subsection (c) to read as follows:

> If all parties requesting the informal conference withdraw their request before the conference is held, the informal conference may be canceled.

h. The IDNR revised subsection (d) to read as follows:

> Informal conferences held in accordance with this section may be used by the director as the public hearing required under 310 IAC 12–2–2(e) on proposed relocation or closing of public roads.

2. 310 IAC 12–3–114 Permit Applications; Permit Approval or Denial Actions

Section 114 of the Indiana rules at 310 IAC 12–3 contains the requirements relating to the actions the director of IDNR must take in approving or denying permit applications.

a. To comply with the formatting guidelines of the Indiana Legislative Services Agency and with recodification of the Indiana Code, the IDNR made citation reference changes in subsections (b)(1) and (b)(2). At subsection (b)(1), the IDNR replaced the existing reference to ''subsection (b)(2)'' with a reference to ''subdivision (2).'' At subsection (b)(2), the IDNR replaced the existing reference to ''IC 13–4.1'' with a reference to ''IC 14–34.''

b. The IDNR revised subsection (e)(1) to require the director of IDNR to give a copy of the permit application decision to the local OSM office.

3. 310 IAC 12–3–115 Permit Applications; Permit Terms

Section 115 of the Indiana rules at 310 IAC 12–3 contains requirements relating to permit terms. It requires the director of IDNR to issue all permits for a term not to exceed five years except under certain conditions. It also requires permittees to begin mining within three years of permit issuance except under certain conditions.

The IDNR revised subsection (b) by requiring permittees to submit a written

statement showing that an extension of time for commencement of operations is necessary.

4. 310 IAC 12–4–12 Collateral Bonds

Section 12 of the Indiana rules at 310 IAC 12–4 contains the conditions for using collateral bonds as performance bonds to guarantee reclamation of mined lands. The IDNR revised section 12 by adding new subsection (c) as follows:

> Persons with an interest in collateral posted as bond, and who desire notification of actions pursuant to the bond, shall request the notification, in writing, to the director at the time the collateral is offered.

5. 310 IAC 12–4–16 Performance Bond Release

Section 16 of the Indiana rules at 310 IAC 12–4 contains requirements and conditions that a permittee must meet when filing a request for release of the performance bond or deposit used to guarantee reclamation of mined land.

a. To comply with the recodification of the Indiana Code, the IDNR made citation reference changes in subsections (c), (c)(2), and (c)(3)(A). The IDNR replaced the existing reference to ''IC 13–4.1'' with a reference to ''IC 14–34.''

b. The IDNR revised subsection (d) to read as follows:

> If the director disapproves the application for release of the bond or portion thereof, the director shall notify the permittee, the surety, and any person with an interest in collateral as provided for in section 12 of this rule, in writing, stating the reason for disapproval and recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing.

6. 310 IAC 12–6–2 Citizen's Request for State Inspections

Section 2 of the Indiana rules at 310 IAC 12–6 contains requirements relating to inspections conducted as a result of information received from any person that gives the director of IDNR reason to believe that an operation is in violation.

a. At subsection (a), the IDNR replaced the citation references to ''IC 13–4.1 and 310 IAC 12'' with references to ''IC 14–34 and this article.''

b. The IDNR revised section 2 by adding new subsection (e) to read as follows:

> The identify of any person supplying information to the director relating to a possible violation or imminent danger or harm shall remain confidential with the director, if requested by that person, unless: (1) that person elects to accompany the inspector on the inspection; or (2) disclosure is required under IC 5–14–3.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Indiana program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on June 4, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have spoken. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have spoken.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 13, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–12645 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD07–99–023]

RIN 2115–AA98

Special Anchorage Areas; St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Anchorage Regulations for the St. Johns River in Jacksonville, FL. The amendment will improve the safety of vessels anchoring within and transiting these anchorage areas by imposing additional notification and VHF–FM channel monitoring requirements.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments may be mailed to Commanding Officer Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida 32211, or may be delivered to above address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (904) 232–2640. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: LT Zachary Pickett, Coast Guard Marine Safety Office Jacksonville, at (904) 232–2640, ext. 128.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07–99–023] and the specific section of this proposal to which each comment applies and give the reason for each comment.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a notice in the **Federal Register**.

Background and Purpose

A natural working group established by the Jacksonville Waterways Management Council proposed additional safety requirements for vessels using Anchorage Areas A and B within the St. Johns River. The Captain of the Port agreed with the finding of the Council and has proposed regulations to improve the safety of vessels anchoring within and transiting the anchorage areas. The amended regulations will require all vessels intending to anchor to notify the Captain of the Port, and all anchoring vessels will be required to monitor Channels 13 and 16 VHF–FM at all times. Also, while in the anchorage area, all vessels transferring petroleum products and all vessels over 300 feet in length will be required to have a pilot or dock master on board and will be required to employ sufficient tugs to ensure safety.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary as these regulations will only economically effect approximately 30 vessels a year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities as the tug employment and pilot requirements will only effect approximately 30 vessels each year in the waters of the St. Johns River, and the other changes are only minor in nature.

If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been completed and is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation: In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The Authority citation for Part 110 continues to read as follows:

Authority: 93 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Revise paragraph (b) of § 110.183 to read as follows:

§ 110.183 St. Johns River, Florida.

* * * * *

(b) *The regulations.* (1) Except in cases of emergency, only vessels meeting the conditions and restrictions of this subsection will be authorized by the Captain of the Port to anchor in the St. Johns River, as depicted on NOAA chart 11491, between the entrance buoy (STJ) and the Main Street Bridge (in approximate position 30–19.20N, 81–39–32W). Vessels unable to meet any of the following conditions and restrictions must obtain specific authorization from the Captain of the Port prior to anchoring in Anchorage A or B.

(2) All vessels intending to enter and anchor in Anchorage A or B shall notify the Captain of the Port prior to entering.

(3) Anchorages A and B are temporary anchorages. Additionally, Anchorage B is used as a turning basin. Vessels may not anchor for more than 24 hours in either anchorage without specific written authorization from the Captain of the Port.

(4) All vessels at anchor must maintain a watch on VHF–FM channels 13 and 16 by a person fluent in English, and shall make a security broadcast on channel 13 upon anchoring and every 4 hours thereafter.

(5) Anchorage A is restricted to vessels less than 250 feet in length.

(6) Anchorage B is restricted to vessels with a draft of 24 feet or less, regardless of length.

(7) Any vessel transferring petroleum products within Anchorage B shall have a pilot or Docking Master abroad, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

(8) Any vessel over 300 feet in length within Anchorage B shall have a Pilot or Docking Master aboard, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

Dated: April 29, 1999.

G.W. Sutton,

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

[FR Doc. 99–11682 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 260

[Docket No. FRA 1999–5663]

RIN 2130–AB26

Railroad Rehabilitation and Improvement Financing Program; Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: Section 7203 of the Transportation Equity Act for the 21st Century (''TEA 21'') amends Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (''Act'') by replacing the railroad financing programs (the purchase of preference shares and the issuance of loan guarantees) with a new loan and loan guarantee program. Section 7203 authorizes the Secretary of Transportation (''Secretary'') to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. The Secretary has delegated his authority to the FRA Administrator. The following types of projects are eligible for financing under Title V, as revised: acquisition, improvement or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops), refinancing outstanding debt incurred for these purposes, or development or establishment of new intermodal or railroad facilities. The aggregate unpaid principal amounts of obligations cannot exceed $3.5 billion at any one time and not less that $1 billion is to be available solely for projects benefiting freight railroads other than Class I carriers.

The NPRM would strike the language in existing part 260 (the Title V loan guarantee program), and replace it with new procedures and requirements to cover applications of financial assistance in the form of direct loans and loan guarantees consistent with the changes in Title V made by section 7203.

DATES: (1) *Written comments:* Written comments must be received no later than June 21, 1999. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) *Hearing:* Because the NPRM tracks the statutory language, FRA does not intend to schedule a public hearing.

(3) *Proposed effective date:* The revisions to part 260 are proposed to become effective thirty days after date of publication of the final rule.

ADDRESSES: The public is invited to submit written comments on the NPRM. The proposals contained in the NPRM may be changed in light of the comments received. Written comments should refer to the docket number of this notice and be submitted in duplicate to: DOT Central Docket Management Facility located in room PL–401 at the Plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. All docket material will be available for inspection at this address and on the Internet at *http://dms.dot.gov.* Docket hours at the Nassif Building are Monday–Friday, 10 a.m. to 5 p.m., excluding Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: JoAnne M. McGowan, Chief of Freight Programs Division, RDV–12, Office of Passenger and Freight Services, FRA, 1120 Vermont Avenue, NW, Mailstop 20, Washington, D.C. 20590 (telephone 202–493–6336), or Joseph R. Pomponio, Senior Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW, Mailstop 10, Washington, D.C. 20590 (telephone 202–493–6336).

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of TEA 21, Title V of the Act, 45 U.S.C. 821 *et seq.*, authorized FRA to provide railroad financial assistance through the purchase of preference shares (45 U.S.C. 825), and the issuance of loan guarantees (45 U.S.C. 831). The FRA regulations implementing the preference share program were eliminated on February 9, 1996, due to the fact that the authorization for the program expired (28 FR 4937). The FRA regulations implementing the loan guarantee provisions of Title V of the Act are contained in 49 CFR Part 260.

Section 7203 of TEA 21, Pub. L. No. 105–178 (June 9, 1998), replaces the existing Title V financing programs.

This NPRM strikes the language in existing part 260 and replaces it with new procedures and requirements to cover applications of financial assistance in the form of direct loans and loan guarantees consistent with the changes made to Title V of the Act by section 7203 of TEA 21.

The revised program is referred to in TEA 21 as the Railroad Rehabilitation and Improvement Financing (''RRIF Program''). The RRIF Program authorizes the Secretary to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. The following type of projects are eligible for financing: (1) Acquisition, improvement or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops), (2) refinancing outstanding debt incurred for these purposes; or (3) development or establishment of new intermodal or railroad facilities. The term ''intermodal'' means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made. Loans and loan guarantees cannot be used for railroad operating expenses. The aggregate unpaid principal amounts of obligations cannot exceed $3.5 billion at any one time, and not less that $1 billion is to be available solely for projects benefitting freight railroads (e.g., other than Class I carriers).

The Secretary has delegated his authority under the RRIF Program to the FRA Administrator. In granting applications, FRA is required to give priority to projects that: (1) Enhance public safety; (2) enhance the environment; (3) promote economic development; (4) enable United States companies to be more competitive in international markets; (5) are endorsed by plans prepared under 23 U.S.C. 135 by the State or States in which they are located; or (6) preserve or enhance rail or intermodal service to small communities or rural areas.

Prerequisites to granting financial assistance under the RRIF Program include:

(1) The financial assistance is required to be repaid within a term of not more than 25 years;

(2) The financial assistance is justified by the present and probable future demand for rail services or intermodal facilities;

(3) The applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the financial assistance will be economically and efficiently utilized;

(4) The obligation can reasonably be repaid, using an appropriate combination of credit risk premiums, and collateral offered by the applicant to protect the Federal Government; and

(5) The purposes of the direct loan or loan guarantee are consistent with the eligible purposes for which funding can be provided under the RRIF Program.

The RRIF Program is intended to be a lender of last resort for railroad applicants. Therefore, all railroad applicants must provide evidence that financing for the proposed project is not available to them from lenders in the private sector. This will be done by the applicants submitting two letters of refusal of financing for the proposal from commercial lenders and any other lending institution that has provided credit to the applicant in the past five years.

The Federal Credit Reform Act of 1990, 2 U.S.C. 661 (''Reform Act''), requires that before making any loan or loan guarantee, agencies of the Federal Government must have received an appropriation of funds from Congress adequate to cover the cost to the Government of making that loan or loan guarantee. Section 502(f) provides that a source of the subsidy cost may be either appropriated Federal funds, funds from a non-Federal source, or any combination thereof. For Fiscal Year 1999, the Administration has not requested, and Congress has not appropriated funds to provide the subsidy cost for borrowers, and in the absence of such an appropriation, the Credit Risk Premium associated with any direct loan or loan guarantee must be provided by the project applicant or infrastructure partner, which includes any participant in the project. The Administration has also not requested appropriated funds to provide the subsidy cost for Fiscal Year 2000.

If an appropriation is ever received for this program, funding decisions, including the split between appropriations and credit risk premiums, will be based on the repayability as well as the statutory priorities. Section 502(c) directs the Secretary to give priority to projects that: (1) Enhance public safety; (2) enhance the environment; (3) promote economic development; (4) enable United States companies to be more competitive in international markets; (5) are endorsed by the plans prepared under section 134 of title 23, United States code, by the State or States in which they are located; or preserve or enhance rail or intermodal service to small communities or rural areas. FRA will evaluate each project request and allocate appropriated funds based on the contribution of a project to the statutory priorities.

Under the RRIF Program, FRA is to determine the amount of the Credit Risk Premium on the basis of: (1) The circumstances of the applicant, including the amount of collateral offered; (2) the proposed schedule of loan disbursements; (3) historical data on the repayment history of similar borrowers; (4) consultation with the Congressional Budget Office; and (5) any other factors FRA considers relevant. The Credit Risk Premium must be paid before disbursement of any loan or loan guarantee proceeds. FRA has determined that it will require collateral, to the extent available, in connection with any loan or loan guarantee.

Under the provisions of the RRIF Program and of the Office of Management and Budget (OMB) Circular A–11, FRA is required to group its direct loans and loan guarantees into cohorts and periodically prepare an evaluation of loan performance by cohort and a re-estimation of the funds needed to cover the estimated losses of a cohort. Consistent with Circular A–11, FRA will establish a separate cohort of loans for each fiscal year, and each loan or guarantee obligated during the fiscal year will be placed in that year's cohort. When all obligations in a cohort have been satisfied or liquidated, the amount of Credit Risk Premiums remaining in the cohort, after deductions made to mitigate losses from any loan or loan guarantee in the cohort, together with interest accrued thereon, will be repaid on a pro rata basis to each original payor of a Credit Risk Premium for any obligation which was fully satisfied. The Credit Risk Premium for each direct loan or loan guarantee is established by estimating the total long-term cost to the Government of that direct loan or loan guarantee. Therefore, if the estimates are accurate, all the Credit Risk Premiums in each cohort will be used to cover losses and none will remain to be returned. Should losses exceed the total amount of credit risk premiums paid for each cohort, the losses will be covered by the Government as provided in the Reform Act.

The RRIF Program provides that FRA must, before granting financial assistance, require the applicant to agree to such terms and conditions as are sufficient, in FRA's judgment, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or

railroad partner for whose benefit the assistance is intended—

(1) Will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant, railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under the RRIF Program;

(2) Will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

(3) Will not make any discretionary dividend payments that unreasonably conflict with the eligible purposes for which loan or loan guarantees can be made under the RRIF Program.

As can be seen from the foregoing discussion, the RRIF Program provides for loan and loan guarantees for a wide variety of projects, including safety improvements such as the rehabilitation of rail freight lines and bridges as well as the elimination of grade crossings.

While any railroad is eligible for financial assistance for a project under the RRIF Program, a key component of the program is the $1 billion dollars reserved for railroad projects benefitting non-Class I freight railroads. The more than 650 shortline and regional railroads connect rural and small communities to the economic mainstream of North America. Collectively, these railroads operate more than 47,000 miles of track. Their mileage exceeds the 46,000 mile Interstate Highway System. Congress directed the RRIF program to make available loans and loan guarantees to support these small railroads.

From 1986 through 1991, small railroads experienced over 3 track-related accidents for every million miles operated. During the same period, major railroads had only 1.45 track-related accidents for every million miles operated. Since 1991, the situation has worsened. From 1992 through 1996, shortline and regional railroads experienced more than 5 track-related accidents per million miles operated while major railroads had only 1.28.

A recent survey by the American Short Line and Regional Rail Association found that 100 small railroads need $950 million in external financing to upgrade their track to safely accommodate the 286,000 pound cars that major carriers are now using. Shortline and regional railroads that cannot safely handle these heavier cars will lose traffic critical to their viability and continued operation. Moreover, if these railroads cease to exist, rail traffic will be diverted to highways accelerating their deterioration and increasing their reconstruction costs, and adversely affecting the environment. Without this financing, some track operated by small railroads may be abandoned and the freight traffic moved by less energy efficient trucks. This will result in additional air pollution and fuel consumption, as well as significantly increased highway maintenance costs. RRIF funding will strengthen the linkage between transportation and environmental policy by helping to ensure the continuation of energy efficient rail freight service. In addition to their track needs, small railroads require financing for equipment. Approximately, 87 percent of the locomotives used by shortline and regional railroads are more than 20 years old and only 1 percent is less than 10 years old. In comparison, 31 percent of the locomotives used by major railroads are less than 10 years old. Only 32 percent are more than 20 years old.

A 1993 study conducted by FRA entitled ''Small Railroad Investment Goals and Financial Options'' (''FRA Study'') found that small railroads face unique problems and difficulties in securing private financing: ''According to the banking industry, it takes an inordinate amount of work to prepare a small railroad loan package, compared to a similar-sized loan for other businesses. Unlike many similar-sized businesses that need short-term loans for inventory or working-capital, small railroads need long-term financing for long-lived assets such as track materials and equipment. Even when private financing could be obtained, these railroads felt that the terms offered were unsatisfactory. In particular, loans were usually offered for not more than 8 years, too short a term for railroad investments that have a much longer productive life.'' (FRA Study at pg. iii and iv.) The study also confirmed that because differences in bankruptcy law treatment of railroads make it more difficult to recover the proceeds of a railroad loan after a bankruptcy or default than a debt owed by a non-railroad borrower, lending to small railroads has been more restrictive than to Class I railroads or similarly sized entities in other industries. FRA Study at page v.

Shortline and regional railroad access to private financing has not improved since FRA's 1993 study. The small railroad's lack of access to private financing is reflected in their increasing rate of track-related derailments and the age of their equipment.

Tax Status of Loan Guarantees

TEA–21 did not amend the provisions in section 149(b) of the Internal Revenue Code that prohibits the use of direct or indirect Federal guarantees of tax-exempt obligations. Accordingly, the interest income on any project loan that is directly or indirectly Federally guaranteed under section 502 of the Act shall not be exempt from Federal income taxation.

Regulatory Impact

E.O. 12866 and DOT Regulatory Policies and Procedures

This NPRM has been evaluated in accordance with existing regulatory policies and is considered to be significant within the meaning of Executive Order 12866 and is a significant rule under the DOT regulatory policies and procedures (44 FR, February 26, 1979). This determination is based on a finding that the rule may have an annual effect on the economy of $100 million or more until the outstanding principal cap of $3.5 billion is reached.

The financing being made available through the regulatory action will provide economic, safety, and environmental benefits. Of the $3.5 billion, $1 billion is reserved for projects benefitting small railroads. Shortline and regional railroads are one of the transportation modes that connect rural America and small communities to the national railroad system.

Prospective borrowers will normally have available the information needed to prepare applications for funding so these costs also will be minimal. While successful applicants will be required to provide Credit Risk Premiums, the amount of financing obtained will substantially exceed the costs of the Credit Risk Premiums.

On this basis, the DOT has concluded that the RRIF program will generate both direct and indirect benefits, including reduced congestion, improved safety, an enhanced environment, and greater economic growth. These benefits are anticipated to far surpass the minimal combined direct costs to the Federal Government and to the entities that elect to participate in the program. Because of the voluntary nature of participation in the RRIF program, this regulatory action is not anticipated to impose any direct costs upon non-participants.

The DOT requests comments, information, and data from the public and potential users concerning the

economic impact of implementing this rule and the RRIF program.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA is not able to certify that this proposed rule would not have a significant impact on a substantial number of small entities and seeks comments from the public. FRA has conducted a regulatory flexibility assessment of this rule's impact on small entities and has found that this action benefits small entities such as governments and railroads. The financing being made available through this rule will provide economic, safety, and environmental benefits. Moreover, participation in the RRIF program is voluntary.

For government entities the definition of small entities is based on population served. As defined by the Small Business Administration (SBA) this term means governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than fifty thousand. It is not possible to determine the number of small government entities that may be involved in applications seeking financial assistance under the RRIF program.

However, it is not likely that small governmental entities will seek financial assistance under the RRIF Program. In response to a public notice on the enactment of the Program, only large metropolitan areas, like the City of Indianapolis and the Memphis and Shelby County Port Commission, indicated an interest in RRIF financing. At the same time, small governmental entities will likely benefit from the economic opportunities resulting from infrastructure improvements to small railroads that connect small governmental entities to the national railroad system. The cost to governmental entities of applying for the program would be minimal since borrowers will normally have available the information needed to prepare applications for funding.

In addition to small governmental entities, the small entities directly affected by this rule are class III railroads. ''Small entity,'' is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated, and is not dominant in its field of operation. The SBA considers a railroad to be small if it has fewer than 1,500 employees of ''line-Haul Operating'' Railroads, and 500 employees for ''Switching and Terminal Establishment.'' Table of Size Standards,'' U.S. Small Business Administration, January 31, 1996, 13 CFR part 121.

Because FRA does not have information regarding the number of people employed by the railroads, it cannot determine exactly how many small railroads, by SBA definition, are in operation within the United States.

Prior to the SBA regulations establishing size categories, the Interstate Commerce Commission (ICC), developed a classification system for freight railroads as class I, II, or III, based on annual operating revenues. A class II railroad has annual operating revenues greater than or equal to $40 million but less than $255.9 million and a class III railroad has annual operating revenues less than $40 million. The Department of Transportation's Surface Transportation Board, which succeeded the ICC, has not changed these classifications. The ICC classification system has been used pervasively by FRA and the railroad industry to identify railroads by size. After consultation with the Office of Advocacy of the SBA and as explained in detail in the ''Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws,'' published August 11, 1997 at 62 FR 43024, FRA has decided to define ''small entity'' on an interim basis to include only those entities whose revenues would bring them within the class III definition. As this is still an alternative definition, FRA requests comments from interested parties on its use.

About 550 of the approximately 700 railroads in the United States are probably Class III railroads and would be considered small businesses by FRA. Small railroads that would be affected by the proposed rule provide less than 10 percent of the industry's employment, own about 10 percent of the track, and operate less than 10 percent of the ton-miles.

A recent survey by the American Short Line and Regional Railroad Association found that 100 small railroads need $950 million in external financing to upgrade their track to safely handle the 286,000 pound cars that the Class I carriers are now using. The amount of need identified is consistent with the statutory reserve of $1 billion for non-class I railroads.

While these 100 railroads may seek RRIF financing, the cost will be minimal since the information needed to complete applications will normally be available. Moreover, participation in the RRIF Program is strictly voluntary.

Written public comments that will clarify the number of affected small entities and what the impacts will be for the affected small entities are requested. FRA especially encourages small railroads and governmental jurisdictions that are considered to be small entities to participate in the comment process and submit written comments to the docket.

Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to OMB under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The DOT has not yet determined the exact burden-hour impact of the information collection requirements that will be an integral part of the program application process. The PRA approval request to OMB will include our estimate of the information collection burden associated with the requirements in this proposed rule. The Department expects to submit a paperwork package to OMB and provide notice in the **Federal Register** shortly. DOT is committed to minimizing any paperwork burden imposed on program applicants. An OMB control number, when assigned, will be published in the **Federal Register**. FRA is not authorized to impose a penalty on persons for violating information requirements which do not display a current OMB control number.

Environmental Impact

FRA has evaluated this regulation in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related directives. This regulation meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This rule will not have a substantial effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communication software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

List of Subjects in 49 CFR Part 260

Federal Railroad Administration, Grant programs—transportation, Railroads.

The Proposed Rule

In consideration of the foregoing, FRA proposes revising part 260 of title 49, Code of Federal Regulations, to read as follows:

PART 260—REGULATIONS GOVERNING LOANS AND LOAN GUARANTEES UNDER THE RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

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260.57 Lender's loan servicing.

Authority: 45 U.S.C. 821, 822, 823; 49 CFR 1.49.

Subpart A—Overview

§ 260.1 Program authority.

Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 821 *et seq.*, authorizes the Secretary of Transportation to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. The Secretary's authority has been delegated to the Administrator of the Federal Railroad Administration, an agency of the Department of Transportation.

§ 260.3 Definitions.

As used in this part—

(a) *Act* means the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 821 *et seq.*

(b) *Administrator* means the Federal Railroad Administrator, or her or his representative.

(c) *Applicant* means any State or local government, government sponsored authority or corporation, railroad, or group of two or more entities, at least one of which is a railroad, participating in a joint venture, that submits an application to the Administrator for a direct loan or the guarantee of an existing obligation under which it is an obligor or for a commitment to guarantee a new obligation.

(d) *Borrower* means an Applicant that has been approved for, and has received, financial assistance under this part.

(e) *Credit risk premium* means that portion of the total subsidy cost to the Government of a direct loan or loan guarantee that is not covered by Federal appropriations and which must be paid by Applicant or its non-Federal infrastructure partner before that direct loan can be disbursed or loan guarantee can be issued.

(f) *Direct loan* means a disbursement of funds by the Government to a non-federal borrower under a contract that requires the repayment of such funds.

(g) *FRA* means the Federal Railroad Administration.

(h) *Financial assistance* means a direct loan, or a guarantee of a new loan issued under this part.

(i) *Holder* means the current owner of an obligation or the entity retained by the owner to service and collect an obligation which is guaranteed under the provisions of this part.

(j) *Including* means including but not limited to.

(k) *Infrastructure partner* means any non-Federal source of the Credit Risk Premium which must be paid to the Administrator in lieu of, or in combination with, an appropriation in connection with financial assistance provided under this part.

(l) *Intermodal* means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

(m) *Lender* means the non-Federal entity making a loan to an Applicant for which a loan guarantee under this part is sought.

(n) *Loan guarantee* means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(o) *Obligation* means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation.

(p) *Obligor* means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor.

(q) *Project* means the purpose for which financial assistance is provided.

(r) *Railroad* means an entity providing common carrier railroad transportation for compensation, including the National Railroad Passenger Corporation, but not including street, suburban, or interurban electric railways not operated as part of the general system of rail transportation.

(s) *Subsidy cost of a direct loan* means the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(1) Loan disbursements;

(2) Repayments of principal; and

(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries; including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(t) *Subsidy cost of a loan guarantee* means the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(1) Payments by the Government to cover defaults and delinquencies,

interest subsidies, or other payments; and

(2) The payments to the Government including origination and other fees, penalties and recoveries.

§ 260.5 Eligible purposes.

(a) Financial assistance under this part is available solely to:

(1) Acquire, improve, or rehabilitate intermodal or rail freight or passenger equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;

(2) Refinance outstanding debt incurred for purposes described in paragraph (a)(1) of this section; or

(3) Develop or establish new intermodal or railroad facilities.

(b) Financial assistance under this part cannot be used for railroad operating expenses.

§ 260.7 Priority consideration.

When evaluating applications, the Administrator will give priority consideration (but not necessarily in the following order) to projects that:

(a) Enhance public safety;

(b) Enhance the environment;

(c) Promote economic development;

(d) Enable United States companies to be more competitive in international markets;

(e) Are endorsed by the plans prepared under section 135 of title 23, United States Code, by the State or States in which they are located; or

(f) Preserve or enhance rail or intermodal service to small communities or rural areas.

§ 260.9 Loan terms.

The maximum repayment period for direct loans and guaranteed loans under this part is 25 years from the date of initial disbursement. In general, the financial assistance provided will be required to be repaid prior to the end of the useful life of the project it is used to fund.

§ 260.11 Investigation charge.

(a) Applicants for financial assistance under this part may be required to pay an investigation charge of one-half of one percent of the principal amount of the direct loan or the loan to be guaranteed.

(b) When an investigation charge is assessed, one-half of the investigation charge shall be paid by Applicant at the time a formal application is submitted to FRA.

(c) Within 60 days after the date of filing of the application, Applicant shall pay to the Administrator the balance of the investigation charge.

§ 260.13 Credit reform.

(a) The Federal Credit Reform Act of 1990, 2 U.S.C. 661, requires Federal agencies to set aside the subsidy cost of new credit assistance provided in the form of direct loans or loan guarantees. The subsidy cost will be the estimated long term cost to the Government of the loan or loan guarantee. The subsidy cost associated with each direct loan or loan guarantee, which the Administrator must set aside, may be funded by Federal appropriations, direct payment of a Credit Risk Premium by the Applicant or a non-Federal infrastructure partner on behalf of the Applicant, or any combination thereof.

§ 260.15 Credit risk premium.

(a) Where available Federal appropriations are inadequate to cover the subsidy cost, a non-Federal infrastructure partner may pay to the Administrator a Credit Risk Premium adequate to cover that portion of the subsidy cost not covered by Federal appropriations. Where there is no Federal appropriation, the Credit Risk Premium must cover the entire subsidy cost.

(b) The amount of the Credit Risk Premium required for each direct loan or loan guarantee, if any, shall be established by the Administrator. The Credit Risk Premium shall be determined based on the credit risk and anticipated recovery in the event of default, including the recovery of collateral.

(c) The Credit Risk Premium must be paid before the disbursement of a direct or guaranteed loan. Where the borrower draws down the direct or guaranteed loan in several increments, the borrower may pay a portion of the total Credit Risk Premium for each increment equal to the proportion of that increment to the total amount of the direct or guaranteed loan.

(d) Each direct loan and loan guarantee made by the Administrator will be included in the single cohort of direct loans and loan guarantees made during that same fiscal year. When all obligations in a cohort have been satisfied or liquidated, the amount of Credit Risk Premiums, paid by applicants or infrastructure partners, remaining in the cohort, after deductions made to mitigate losses from any loan or loan guarantee in the cohort, together with interest accrued thereon, will be repaid on a pro rata basis to each original payor of a Credit Risk Premium for any obligation which was fully satisfied. If the Administrator's estimate of the default risk cost of each loan is accurate, the aggregate of Credit Risk Premiums associated with each cohort of loans will fully offset all losses in the cohort and none will remain to be returned to the payees.

Subpart B—FRA Policies and Procedures for Evaluating Applications for Financial Assistance

§ 260.17 Credit Risk Premium analysis.

(a) When Federal appropriations are not available to cover the total subsidy cost, the Administrator will determine the Credit Risk Premium necessary for each direct loan or loan guarantee by estimating the credit risk and the potential recovery in the event of a default of each project evaluating the factors described in paragraphs (b) and (c) of this section.

(b) Establishing the credit risk. (1) Where an Applicant has received a recent credit rating from one or more nationally recognized rating agencies, that rating will be used to estimate the credit risk.

(2) Where Applicant has not received a credit rating from a credit rating agency, the Administrator will determine the credit risk based on an evaluation of the following factors:

(i) Business risk, based on Applicant's:

(A) Industry outlook;

(B) Market position;

(C) Management and financial policies;

(D) Capital expenditures; and

(E) Operating efficiency.

(ii) Financial risk, based on Applicant's past and projected:

(A) Profitability;

(B) Liquidity;

(C) Financial strength;

(D) Size; and

(E) Level of capital expenditures; and

(iii) Project risk, based on the proposed project's:

(A) Potential for improving revenues, profitability and cash flow from operations; and

(B) Reliance on third parties for success;

(c) The potential recovery in the event of a default will be based on:

(1) Nature of the Applicant's assets; and

(2) Liquidation value of the collateral offered, including the terms and conditions of the lien securing the collateral.

§ 260.19 Preapplication meeting.

Potential Applicants may request a meeting with the FRA Assistant Administrator for Railroad Development to discuss the nature of the project being considered. Applicants must be prepared to provide at least the following information:

(a) Applicant's name, address, and contact person;

(b) Name of the proposed infrastructure partner(s), if any, including the identification of potential amounts of funding from each;

(c) Amount of the direct loan or loan guarantee request, and a description of the technical aspects of the project including a map of the existing railroad lines with the location of the project indicated;

(d) Brief description and estimate of the economic impact, including future demand for service, improvements that can be achieved, the project's relation to the priorities listed in § 260.5, along with any feasibility, market or other studies that may have been done as attachments;

(e) Amount of Applicant's equity and a description of collateral offered, with estimated values, including the basis of such, to be offered as security for the loan;

(f) If applicable, the names and addresses of the Applicant's parent, affiliates, and subsidiary corporations, if any, and a description of the ownership relationship and the level of guarantee, if any, to be offered;

(g) For existing companies, a current balance sheet and an income statement not more than 90 days old and financial statements for the borrower and any parent, affiliates, and subsidiaries for at least the four most recent years; and

(h) Information relevant to the potential environmental impacts of the project in the context of applicable Federal law.

Subpart C—Applications for Financial Assistance

§ 260.21 Eligibility.

(a) The Administrator may make a direct loan to an Applicant, or guarantee the payment of the principal balance and any interest of an obligation of an Applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such direct loan or obligation shall be, or have been, used by the Applicant for the eligible purposes listed in § 260.3(a) (1) and (2).

(b) The Administrator may also make a direct loan to an Applicant, or guarantee a new obligation of an Applicant prior to, or on the date of execution of such obligation, if the proceeds shall be used for the eligible purposes listed in § 260.3(b).

§ 260.23 Form and content of application generally.

Each application shall include, in the order indicated and identified by applicable paragraph numbers and letters corresponding to those used in this section, the following information:

(a) Full and correct name and principal business address of the Applicant;

(b) Date of Applicant's incorporation, or organization if not a corporation, and name of the government, State or territory under the laws of which it was incorporated or organized. If Applicant is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished;

(c) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(d) A statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of Applicant and such other railroad or participant, including financial statements (if applicable) and financing arrangements of each participant, portion of the work to be performed by each participant, and anticipated level of usage of the equipment or facility of each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters;

(e) A detailed description of the amount and timing of the financial assistance that is being requested and its purpose or purposes, including:

(1) Detailed description of the project and its purpose or purposes;

(2) A description of all facilities or equipment and the physical condition of such facilities or equipment included in or directly affected by the proposed project;

(3) Each part or sub-part into which the project may reasonably be divided and the priority and schedule of expenditure for each part or sub-part; and

(4) Proposed dates of commencement and completion of the project and estimated timing of the expenditure of the proceeds of the obligation;

(f) A listing and description of the collateral to be offered the Administrator in connection with any financial assistance provided; Applicant's opinion of the value of this security and the basis for such opinion; in the case of leased equipment to be rehabilitated or improved with the proceeds of the obligation proposed to be guaranteed, Applicant shall State, in addition to the above, whether the lease provides for, or the lessor will permit, encumbrance of the leasehold or subordination of the lessor's interest in the equipment to the Administrator;

(g) A statement, in summary form, showing financial obligations to or claims against the United States or obligations for which the United States is guarantor, if any, by Applicant or any affiliated corporate entity of the Applicant or the Applicant's parent as of the date of the application, including:

(1) Status of any claims under litigation; and

(2) Any other debits or credits existing between the Applicant and the United States, showing the department or agency involved in such loans, claims and other debts;

(h) An analysis that includes:

(1) A statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand for rail services or facilities, that the financing is justified by present and future probable demand for rail services or facilities, will meet existing needs for such services or facilities, and will provide shippers or passengers with improved service;

(2) Description of the impact of the project upon the projected freight or passenger traffic to be originated, terminated, or carried by the Applicant for at least the five years immediately following completion of the project;

(3) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and

(4) Description of cost savings or any other benefit which would accrue to the Applicant from the project;

(i) A statement as to how the project will contribute to, or enhance, the safe operation of the railroad, considering such factors as the occupational safety and health of the employees and the improvement of the physical and other conditions that have caused or may cause serious injury or loss of life to the public;

(j) A statement of Applicant's maintenance program for its entire rail system and planned maintenance program for the equipment or facilities financed by the proceeds of the financial assistance;

(k) A certified statement in the form contained in § 260.31(a) that Applicant will pay to the Administrator, in accordance with § 260.11, the investigation charge with respect to the application;

(l) Information relevant to the potential environmental impacts of the project in the context of applicable Federal laws;

(m) Any additional information that the Applicant deems appropriate to convey a full and complete understanding of the project, the project's relations to the priorities listed in § 260.5, and its impact or to assist the Administrator in making the statutorily prescribed findings; and

(n) Any other information which the Administrator may deem necessary concerning an application filed under this part;

(o) Railroad applicants must also submit copies of applications for financing for the project in the private sector, including terms requested, from at least two commercial lenders who regularly provide funding to U.S. corporations and any lending institution that has provided credit to the railroad applicant within 5 years prior to the date the application is submitted, and their responses refusing to provide such financing.

§ 260.25 Additional information for Applicants not having a credit rating.

Each application submitted by Applicants not having a recent credit rating from one or more nationally recognized rating agencies shall include, in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information:

(a) A narrative statement detailing management's business plan to enhance Applicant's ability to provide rail services including a discussion of the following:

(1) Applicant's current and prospective traffic base, including by commodity and geographic region, major markets served, major interchange points, and market development plans;

(2) Applicant's current operating patterns, and plans, if any, to enhance its ability to serve its current and prospective traffic base;

(3) System-wide plans to maintain equipment and rights-of-way at current or improved levels; and

(4) Specific plans for rationalization of marginal or uneconomic services;

(b) Detailed financial information, including:

(1) Audited financial statements, certified by Applicant's independent public accountants, for the four calendar years immediately preceding the date of filing of the application, including:

(i) A copy of Applicant's most recent year-end general balance sheet and a copy of Applicant's most recent unaudited general balance sheet as of a date no less recent than the end of the third month preceding the date of filing of the application; and

(ii) Applicant's most recent annual income statement certified by Applicant's independent public accountants and a spread sheet showing unaudited monthly and year-to-date income statement data for the calendar year in which the application is filed. For those months preceding the date of the application, the income statement data shall be reported on an actual basis and so noted. For those months between the date of the application and the end of the year, the income statement data shall be presented on a forecasted basis and so noted and shall be submitted in conjunction with a forecasted balance sheet as of the year end;

(2) Projected financial statements, including:

(i) Spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceeds of the assistance requested in the application:

(A) Forecasted annual income statement;

(B) Forecasted year-end balance sheets. These spread sheets shall be accompanied by a statement setting forth the bases for such forecasts; and

(C) A spread sheet showing changes in financial position for the year in which the application is filed, including the period ending on the date of the application based upon actual data and the period from the date of the application to the end of the year, based upon estimated and forecasted data;

(c) A narrative description of Applicant's operations, management's financial policies, and financial performance goals;

(d) Capital spending plans for the next five years;

(e) Cash flow projections;

(f) Contingency plans for termination of the project before completion, if necessary; and

(g) A narrative description of Applicant's management team, including:

(1) Rail experience of top management;

(2) Management's plans for achieving growth and its long-term capital spending plan; and

(3) A narrative description of Applicant's workforce and the historical rate of employee turnover.

§ 260.27 Additional information for loan guarantees.

Applications for a loan guarantee shall also include in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information:

(a) With respect to each existing obligation to be refinanced or proposed obligation:

(1) A certified copy of proposed or executed obligation agreements;

(2) A detailed description of the obligation, and a description of the series or issue of which the obligation is, or will be a part, including:

(i) Effective date, or anticipated effective date;

(ii) Where a guarantee is sought for an outstanding obligation being refinanced, actual effective rate of interest; or where the obligation is new, the terms of the proposed obligation including the proposed effective rate of interest; and

(iii) All related documents, whether executed or proposed; and

(b) With respect to each existing holder or prospective lender, a statement as to:

(1) Full and correct name and principal business address;

(2) Reference to applicable provisions of law and the charter or other governing instruments conferring authority on the holder of the obligation or prospective lender;

(3) Brief statement of the circumstances and negotiations leading to the agreement by the holder or prospective lender to make the loan;

(4) Brief statement of the nature and extent of any affiliation or business relationship between the holder or prospective lender and the Applicant or any of Applicant's directors, partners, or principal executive officers; and

(5) Full and complete statement of all sums to be provided by the holder or to be provided by the prospective lender in connection with the proposed obligation including:

(i) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the holder or prospective lender or any of its directors, partners, or officers; and

(ii) Amount of the cash payment, or the nature and value of other consideration.

§ 260.29 Required exhibits.

There shall be filed with and made a part of each application and copy thereof the following exhibits. While the application is pending, when actual data become available in place of the estimated or forecasted data required in the exhibits under this part, such actual data must be reported promptly to the Administrator in the form required in the appropriate exhibit. All forecasted data required in the exhibits under this part must be based on the assumption that the project will be funded on the January 1 next following the date of the application.

(a) *Exhibit A.* Map of Applicant's existing railroad with location of project indicated, if appropriate;

(b) *Exhibit B.* With respect to equipment proposed to be rehabilitated, improved, maintained, or acquired in the application, a statement indicating number of units and in-service or out-of-service status and, as appropriate:

(1) For locomotives, service type, age, size, horsepower, name of builder, description of work, and unit cost of proposed work; and

(2) For freight and passenger cars or intermodal equipment, information as to service type (box, gondola, flat, etc.), age, capacity, description of work, and unit costs of proposed work; and

(c) *Exhibit C.* With respect to the maintenance, rehabilitation, improvement, acquisition, or construction of facilities proposed in the application, a statement showing the track class, as defined by the FRA Track Safety Standards in part 213 of this chapter, and maximum allowable speed under which each line on which maintenance, rehabilitation, improvement, acquisition or construction is proposed has been and is being operated and the reasons therefor, the track class, maximum allowable speed, and signal requirements necessary in the judgment of the railroad to provide safe, reliable and competitive rail services over such lines, and the highest track class and maximum allowable speed at which each such line will be designated when the proposed project is completed.

§ 260.31 Execution and filing of the application.

(a) The original application shall bear the date of execution, be signed in ink by or on behalf of the Applicant, and shall bear the corporate seal in the case of an Applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the Applicant shall also sign a certificate in form as follows:

(Name of official) certifies that he or she is the (Title of official) of the (Name of Applicant); that he or she is authorized on the part of the Applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the Applicant, in order to make this application has been given; that he or she has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid (Name of Applicant); that he or she has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his or her knowledge, information, and belief; and that Applicant will pay the balance of the investigation charge in accordance with § 260.11.

(Name of official)
(Date)

(b) There shall be made a part of the original application the following certificate by the Chief Financial Officer or equivalent officer of the Applicant:

(Name of officer) certifies that he or she is (Title of officer) of (Name of Applicant); that he or she has supervision over the books of accounts and other financial records of the affected Applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting practices; that such accounts are adequate to assure that proceeds from the financing being requested will be used solely and specifically for the purposes authorized; that he or she has examined the financial statements and supporting schedules included in this application and to the best of his or her knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the Applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the Applicant.

(Name of official)
(Date)

(c) The Applicant shall pay the investigation charge in accordance with § 260.11.

(d) The application shall be accompanied by a transmittal letter in the following form:

Re Application for financial assistance under the Railroad Rehabilitation and Improvement Financing.

Federal Railroad Administrator,
c/o the Associate Administrator for Railroad Development of the Federal Railroad Administration, Department of Transportation, Washington, D.C.

Dear Sir or Madam: Being duly authorized by (jointly and severally/if more than one) (the ''Applicant'') to convey the understandings hereinafter set forth, I respectfully submit this application and remit its investigation fee in the amount equal to one-quarter of one percent of the principal amount of the (direct loan/loan guarantee) sought. By this filing, Applicant requests the Administrator to investigate the application and make the necessary findings upon which Applicant's eligibility for a direct loan or loan guarantee may be determined.

Applicant understands that neither the acceptance of this filing, the deposit of the investigation charge, nor the commencement of an investigation acknowledges the sufficiency of the application's form, content or merit. Furthermore, Applicant understands that the Administrator will incur numerous expenses by this filing with respect to the investigation of the application, the appraisal of security being offered, and the making of the necessary determinations and findings, and promises to pay, within 60 days, an additional investigation fee in the amount equal to one-quarter of one percent of the principal amount of the direct loan or guarantee sought.

Applicant understands that the Administrator will establish the amount of Credit Risk Premium due from Applicant, if any, as provided in § 260.15. Applicant agrees to pay such Credit Risk Premium prior to the disbursement of direct or guaranteed loan, as appropriate. Such Credit Risk Premium may be refunded as provided in § 260.15.

Respectfully submitted.
Applicant(s)
Seal(s)
by Its (Their).

(e) The original application and supporting papers, and five copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Railroad Development of the Federal Railroad Administration, 1120 Vermont Ave., N.W., Stop 21, Washington, D.C. 20590. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

§ 260.33 Information requests.

If an Applicant desires that any information submitted in its application or any supplement thereto not be released by the Administrator upon request from a member of the public, the Applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential to the extent permitted by law.

§ 260.35 Environmental assessment.

(a) The provision of financial assistance by the Administrator under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including the National Environmental Policy Act (''NEPA'') (42 U.S.C. 4332 *et*

seq.), Section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)), the National Historic Preservation Act (16 U.S.C. 470(f)), the Coastal Zone Management Act (16 U.S.C. 1451), and the Endangered Species Act (16 U.S.C. 1531). Appropriate environmental/historic preservation documentation must be completed and approved by the Administrator prior to a decision by the Administrator on the applicant's financial assistance request. FRA's ''Procedures for Considering Environmental Impacts'' (''FRA's Environmental Procedures'') (45 FR 40854 (June 16, 1980)) or any replacement environmental review procedures that the FRA may later issue and the NEPA regulation of the Council on Environmental Quality (''CEQ Regulation'') (40 CFR 1500) will govern the FRA's compliance with applicable environmental/historic preservation review requirements.

(b) The Administrator, in cooperation with the applicant, has the responsibility to mange the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administrator in accordance with the CEQ regulations and section 7 of FRA's environmental procedures.

(c) Depending on the type, size and potential environmental impact of the project for which the applicant is seeking financial assistance, FRA will need to (1) prepare an Environmental Impact Statement (EIS) or (2) prepare or have prepared an Environmental Assessment leading to a Finding of No Significant Impact or (3) conclude that the project is categorically excluded from detailed environmental review under section 4 of FRA's environmental procedures. At the discretion of the Administrator, Applicants may be required to prepare and submit an environmental assessment of the proposed project or to submit adequate documentation to support a finding that the project is categorically excluded from detailed environmental review. If the applicant is a public agency that has statewide jurisdiction or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may be requested to prepare the EIS and other environmental documents under the Administrator's guidance.

(d) Applicants are strongly urged to consult with the Associate Administrator for Railroad Development at the earliest possible stage in project development in order to assure that the environmental/historic preservation review process can be completed in a timely manner.

(e) Applicants may not initiate any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives in advance of the completion of the environmental review process. This does not preclude development by applicants of plans or designs or performance of other work necessary to support the application for financial assistance.

§ 260.37 Waivers and modifications.

The Administrator may, upon good cause shown, waive or modify any requirement of this part not required by law or make any additional requirements the Administrator deems necessary.

Subpart D—Standards for Maintenance of Facilities Involved in the Project

§ 260.39 Applicability.

This subpart prescribes standards governing the maintenance of facilities that are being, or have been, acquired, rehabilitated, improved, or constructed with the proceeds of a direct loan or a guaranteed loan issued under this part for the period during which any portion of the principal or interest of such obligation remains unpaid.

§ 260.41 Maintenance standards.

(a) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used to acquire, rehabilitate, improve or construct track, roadbed, and related structures, Borrower shall, as long as any portion of the principal or interest of such obligation remains unpaid, maintain such facilities in at least the highest track class, as defined by FRA Track Safety Standards in part 213 of this chapter, specified in the Application at which the rehabilitated, improved, acquired, or constructed track is to be operated upon completion of the project unless a waiver is granted in accordance with § 260.37.

(b) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used for equipment or facilities, the Borrower shall, during the period in which any portion of the principal or interest in such obligation remains unpaid, maintain such equipment or facilities in a manner consistent with sound engineering and maintenance practices and in a condition that will permit the level of use that existed upon completion of the acquisition, rehabilitation, improvement or construction of such equipment or facilities unless a waiver is granted in accordance with § 260.37.

§ 260.43 Inspection and reporting.

(a) Equipment or facilities subject to the provisions of this subpart may be inspected at such times as the Administrator deems necessary to assure compliance with the standards set forth in § 260.41. Each Borrower shall permit representatives of the FRA to enter upon its property to inspect and examine such facilities at reasonable times and in a reasonable manner. Such representatives shall be permitted to use such testing devices as the Administrator deems necessary to insure that the maintenance standards imposed by this subpart are being followed.

(b) Each Borrower shall submit to the Administrator annually financial records and other documents detailing the maintenance performed and the inspections conducted which demonstrate that the Borrower has complied with the standards in § 260.41.

§ 260.45 Impact on other laws.

Standards issued under this subpart shall not be construed to relieve the Borrower of any obligation to comply with any other Federal, State, or local law or regulation.

Subpart E—Procedures To Be Followed in the Event of Default

§ 260.47 Events of default for guaranteed loans.

(a) If the Borrower is more than 30 days past due on a payment or is in violation of any covenant or condition of the loan documents and such violation constitutes a default under the provisions of the loan documents, Lender must notify the Administrator in writing and must continue to submit this information to the Administrator each month until such time as the loan is no longer in default; and the Administrator will pay the holder of the obligation, or the holders's agent, an amount equal to the past due interest on the guaranteed portion of the defaulted loan. This payment will in no way reduce the Borrower's obligation to the holder to make all payments of principal and interest in accordance with the note. If the loan is brought current, the holder will repay to the Agency any interest payments made by the Agency, plus accrued interest at the note rate.

(b) If the default has continued for more than 90 days, the Administrator will pay to the holder of the obligation, or the holder's agent, 90 percent of the unpaid guaranteed principal. If,

subsequent to this payment being made, the default is cured and liquidation is no longer appropriate, the holder will repay such funds to the Administrator, plus interest at the note rate.

(c) After the default has continued for more than 90 days, the holder shall expeditiously submit to the Administrator, in writing, its proposed detailed plan to resolve the default by liquidating the collateral or by any other means.

If the resolution will require the liquidation of the collateral, then the holder's plan shall include:

(1) Proof adequate to establish that the holder is legally in possession of the obligation and a statement of the current loan balance and accrued interest to date and the method of computing the interest;

(2) A full and complete list of all collateral, including any personal and corporate guarantees;

(3) The recommended liquidation methods for making the maximum collection possible and the justification for such methods, including recommended action for acquiring and disposing of all collateral and collecting from any guarantors;

(4) Necessary steps for preservation of the collateral;

(5) Copies of the Borrower's latest available financial statements;

(6) Copies of any guarantor's latest available financial statements;

(7) An itemized list of estimated liquidation expenses expected to be incurred along with justification for each expense;

(8) A schedule to periodically report to the Agency on the progress of liquidation;

(9) Proposed protective bid amounts on collateral to be sold at auction and a breakdown to show how the amounts were determined;

(10) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt;

(11) Legal opinions, as appropriate;

(12) The holder will obtain an independent appraisal on all collateral securing the loan which will reflect the fair market value and potential liquidation value. In order to formulate a liquidation plan that maximizes recovery, the appraisal shall consider the presence of hazardous substances, petroleum products, or other environmental hazards, which may adversely impact the market value of the collateral; and

(13) The anticipated expenses associated with the liquidation will be considered a cost of liquidation.

(d) The Administrator will inform the lender in writing whether the Administrator concurs in the lender's liquidation plan. Should the Administrator and the lender not agree on the liquidation plan, negotiations will take place between the Administrator and the lender to resolve the disagreement. When the liquidation plan is approved by the Administrator, the lender will proceed expeditiously with liquidation. The liquidation plan may be modified when conditions warrant. All modifications must be approved in writing by the Administrator prior to implementation.

(e) Lender will account for funds during the period of liquidation and will provide the Administrator with reports at least quarterly on the progress of liquidation including disposition of collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

(f) Within 30 days after final liquidation of all collateral, the lender will prepare and submit to the Administrator a final report in which the lender must account for all funds during the period of liquidation, disposition of the collateral, all costs incurred, and any other information necessary for the successful completion of liquidation. Upon receipt of the final accounting and report of loss, the Administrator may audit all applicable documentation to confirm the final loss. The lender will make its records available and otherwise assist the Administrator in making any investigation.

(g) The Administrator shall be subrogated to all the rights of the holder with respect to the Borrower to the extent of the Administrator's payment to the holder under this section.

(h) When the Administrator finds the final report to be proper in all respects:

(1) All amounts recovered in liquidation shall be paid to the Administrator; and

(2) The remaining obligation of the Administrator to the holder under the guarantee, if any, will be paid directly to holder by the Administrator.

(i) The Administrator shall not be required to make any payment under paragraphs (a) and (b) of this section if the Administrator finds, before the expiration of the periods described in such subsections, that the default has been remedied.

(j) The Administrator shall have the right to charge Borrower interest, penalties and administrative costs, including all of the United States' legally assessed or reasonably incurred expenses of its counsel and court costs in connection with any proceeding brought or threatened to enforce payment or performance under applicable loan documents, in accordance with OMB Circular A–129, as it may be revised from time to time.

§ 260.49 Events of default for direct loans.

(a) Upon the Borrower's failure to make a scheduled payment, or upon the Borrower's violation of any covenant or condition of the loan documents which constitutes a default under the provisions of the loan documents, the Administrator, at the Administrator's discretion may:

(1) Exercise any and all remedies available under the provisions of the loan agreement and other loan documents, including any guarantees, or inherent in law or equity;

(2) Terminate further borrowing of funds;

(3) Take possession of assets pledged as collateral; and

(4) Liquidate pledged collateral.

(b) The Administrator shall have the right to charge Borrower interest, penalties and administrative costs, including all of the United States' legally assessed or reasonably incurred expenses of its counsel and court costs in connection with any proceeding brought or threatened to enforce payment or performance under applicable loan documents, in accordance with OMB Circular A–129, as it may be revised from time to time.

§ 260.51 Avoiding defaults.

Borrowers are encouraged to contact the Administrator prior to the occurrence of an event of default to explore possible avenues for avoiding such an occurrence.

Subpart F—Loan Guarantees—Lenders

§ 260.53 Conditions of guarantee.

(a) The percentage of the obligation for which Applicant seeks a guarantee is a matter of negotiation between the Lender and the Applicant, subject to the Administrator's approval. The maximum percentage of the total obligation that the Administrator will guarantee is 80 percent. The amount of guarantee allowed will depend on the total credit quality of the transaction and the level of risk believed to be assumed by the Administrator.

(b) A guarantee under this part constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which a lender or holder has actual knowledge at the time it becomes such lender or holder or which a lender or holder participates in or condones. In addition,

the guarantee will be unenforceable by the lender to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which the Administrator acquires knowledge thereof. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FRA in its guarantee.

(c) The Administrator may guarantee an Applicant's obligation to any lender provided such lender can establish to the satisfaction of the Administrator that it has the legal authority and sufficient expertise and financial strength to operate a successful lending program. Loan guarantees will only be approved for lenders with adequate experience and expertise to make, secure, service, and collect the loans.

(d) The lender may sell all of the guaranteed portion of the loan on the secondary market, provided the loan is not in default, or retain the entire loan.

(e) When a guaranteed portion of a loan is sold to a holder, the holder shall succeed to all rights of the lender under the loan guarantee to the extent of the portion purchased. The lender will remain bound to all obligations under the loan guarantee and the provisions of this part. In the event of material fraud, negligence or misrepresentation by the lender or the lender's participation in or condoning of such material fraud, negligence or misrepresentation, the lender will be liable for payments made by the Agency to any holder.

§ 260.55 Lenders' functions and responsibilities.

Lenders have the primary responsibility for the successful delivery of the program consistent with the policies and procedures outlined in this part. All lenders obtaining or requesting a loan guarantee from the Administrator are responsible for:

(a) *Loan processing.* Lender shall be responsible for all aspects of loan processing, including:

(1) Processing applications for the loan to be guaranteed;

(2) Developing and maintaining adequately documented loan files;

(3) Recommending only loan proposals that are eligible and financially feasible;

(4) Obtaining valid evidence of debt and collateral in accordance with sound lending practices;

(5) Supervising construction, where appropriate;

(6) Distributing loan funds;

(7) Servicing guaranteed loans in a prudent manner, including liquidation if necessary; and

(8) Obtaining the Administrator's approval or concurrence as required in the loan guarantee documentation;

(b) *Credit evaluation*. Lender must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The lender must have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures;

(c) *Environmental responsibilities*. Lender has a responsibility to become familiar with Federal environmental requirements; to consider, in consultation with the prospective borrower, the potential environmental impacts of their proposals at the earliest planning stages; and to develop proposals that minimize the potential to adversely impact the environment. Lender must alert the Administrator to any controversial environmental issues related to a proposed project or items that may require extensive environmental review. Lender must assist borrowers as necessary to comply with the environmental requirements outlined in this part. Additionally, lender will assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal; and assist in the resolution of environmental problems;

(d) *Loan closing.* The lender will conduct or arrange for loan closings; and

(e) *Fees and Charges*. The lender may establish charges and fees for the loan provided they are similar to those normally charged other Applicants for the same type of loan in the ordinary course of business.

§ 260.57 Lender's loan servicing.

(a) The lender is responsible for servicing the entire loan and for taking all servicing actions that are prudent. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the loan documents, obtaining and analyzing financial statements, verification of tax payments, and insurance premiums, and maintaining liens on collateral.

(b) The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually.

(c) At the Administrator's request, the lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The lender must analyze the financial statements and provide the Agency with a written summary of the lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the lender nor the holder shall alter, nor approve any amendments of, any loan instrument without the prior written approval of the Administrator.

Issued in Washington, D.C. on May 13, 1999.

Donald M. Itzkoff,

Acting Administrator.

[FR Doc. 99–12542 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567 and 568

[Docket No. NHTSA–99–5673]

RIN 2127–AE27

Vehicles Built in Two or More Stages

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of intent to form a negotiated rulemaking advisory committee.

SUMMARY: NHTSA proposes to establish a Negotiated Rulemaking Committee to develop recommended amendments to the existing NHTSA regulations governing the certification of vehicles built in two or more stages (49 CFR Part 567, 568), so that certification responsibilities can be more equitably assigned among the various participants in the multi-stage vehicle manufacturing process. The Committee would develop its recommendations through a negotiation process. The Committee would consist of persons who represent the interests affected by the proposed rule, such as first-stage, intermediate and final-stage manufacturers of motor vehicles, equipment manufacturers, vehicle converters, trade associations that represent various manufacturing groups, as well as consumers. The purpose of this document is to invite interested parties to submit comments on the issues to be discussed and the

interests and organizations to be considered for representation on the Committee.

DATES: You should submit your comments or applications for membership or nominations for membership on the negotiated rulemaking committee early enough to ensure that Docket Management receives them not later than June 21, 1999.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590.

You may call the Docket at 202–366–9324. You may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Charles Hott, Office of Crashworthiness Standards, at 202–366–4920.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

I. Regulatory Negotiation

NHTSA intends to use the negotiated rulemaking procedure in accordance with the Negotiated Rulemaking Act of 1990, Pub. L. 101–648 (NRA) (5 U.S.C. 561, *et seq.*). The agency will form an advisory committee consisting of representatives of the affected interests and the agency for the purpose of reaching consensus on the proposed rule. The NRA establishes a framework for the conduct of a negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the informal rulemaking process. Under the NRA, the head of an agency must consider whether:

- There is a need for the rule;
- There are a limited number of identifiable interests that will be significantly affected by the rule;
- There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who (1) can adequately represent the interests identified; and (2) are willing to negotiate in good faith to reach a consensus on the rulemaking;
- There is a reasonable likelihood that a committee will reach a consensus on the rulemaking within a fixed period of time;
- The negotiated rulemaking process will not unreasonably delay the development and issuance of a final rule;
- The agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and
- The agency, to the maximum extent possible consistent with its legal obligations, will use the consensus of the committee with respect to developing the rule proposed by the agency for public notice and comment.

Negotiations are conducted by a committee chartered under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). The committee includes an agency representative and is assisted by a neutral facilitator. The goal of the committee is to reach consensus on the language or issues involved in the rule. If consensus is reached, the agency undertakes to use the consensus as the basis of the proposed rule, to the extent consistent with its legal obligations. The negotiated rulemaking process does not otherwise affect the agency's obligations under FACA, the Administrative Procedure Act and other statutes, including all economic, paperwork and other regulatory analyses.

NHTSA invites comments on the appropriateness of regulatory negotiation for a proposed rule on vehicles built in two or more stages.

II. Subject and Scope of the Rule

A. Need for the Rule

The certification problems of multistage manufacturers have troubled NHTSA almost since the agency's creation. An early set of NHTSA regulations on this subject was overturned almost twenty-five years ago. *Rex Chainbelt* v. *Volpe,* 486 F.2d. 757 (7th Circuit 1973; *appeal after remand, Rex Chainbelt* v. *Brinegar,* 511 F.2d 1215 (7th Cir. 1975). To resolve that lawsuit, the agency amended 49 CFR Part 568 to define ''chassis cabs'' and establish special certification requirements for chassis cab manufacturers, which are usually large companies such as General Motors Corporation and Ford Motor Company. However, the amended regulations do not impose corresponding certification responsibilities on manufacturers of incomplete vehicles other than ''chassis cabs.''

A further amendment to 49 CFR Part 567 has become necessary as a result of another judicial decision that invalidated NHTSA's 1989 amendment of Federal Motor Vehicle Safety Standard (FMVSS) No. 204 (Steering Column Displacement) with respect to light trucks and vans with gross vehicle weight ratings of up to 10,000 pounds that are manufactured in two or more stages. *National Truck and Equipment Association* v. *NHTSA*, 919 F.2d 1148 (6th Cir. 1990). A majority of the court concluded that the challenged rule was not practicable for final stage manufacturers that cannot ''pass through'' the certification of the incomplete vehicle manufacturer. The court cited NHTSA's acknowledgment in the regulatory preamble that most final stage manufacturers are not capable of performing dynamic testing or in-house engineering analysis, as well as the fact that ''pass through'' certification is not available under existing regulations unless the incomplete vehicle is a chassis cab.

In response to the *NTEA* decision, on December 3, 1991, NHTSA published a notice of proposed rulemaking (NPRM) (56 FR 61392) to extend the certification requirements that currently apply only to manufacturers of chassis-cabs to all incomplete vehicle manufacturers, and to permit all final stage manufacturers to ''pass through'' the certification of the incomplete vehicle under certain circumstances. That NPRM engendered considerable controversy and virtually no support. In the comments, there was a clear division in positions among the various segments of the multistage vehicle industry.

On November 17, 1995, NHTSA published a Notice announcing that it would hold a public meeting to seek information from final stage and intermediate manufacturers of vehicle built in two or more stages, manufacturers of incomplete vehicles, and the public on certification of vehicles that are manufactured in stages and suggestions for action with respect to NHTSA's regulations and Federal Motor Vehicle Safety Standards that govern the manufacture of vehicles in stages (60 FR 57694). In the notice, the agency stated its belief that multistage vehicle certification is an area in which negotiated rulemaking may be beneficial, and invited comments on the advisability of conducting negotiated rulemaking in this area.

The public meeting was held on December 12, 1995. Companies, trade associations, and individuals made presentations at the meeting and/or submitted written comments for the record. Many of the comments endorsed using regulatory negotiation for this rulemaking; none opposed the process. Based on this response, NHTSA has determined that establishing an ad hoc advisory committee on this subject is in the public interest.

B. Issues and Questions To Be Resolved

NHTSA has tentatively identified major issues that should be considered in this negotiated rulemaking. Listed below are subjects which NHTSA presently believes the negotiation process should address:

- Equitable and effective allocation of certification responsibility;
- Enforcement issues relevant to each stage of manufacturing;
- Costs to regulated parties of testing or certification;
- Effects on safety;
- Effects on small businesses;
- Enforceability against later stage manufacturers of standards that include dynamic testing;
- Feasibility and cost effectiveness of alternate methods (e.g., testing, computer modeling, or other as-yet-unspecified methods) to ensure compliance of completed vehicles with requirements of applicable FMVSS's;
- Mechanisms for incorporating alternate methods of ensuring compliance into these regulations;
- Mechanisms for sharing costs of testing;
- Requirements tailored to the capabilities and circumstances of each class of vehicles;
- Extended leadtime for implementation of FMVSSs for final-stage manufacturers;
- Recall and warranty responsibilities of manufacturers;
- Pass-through certification as a compliance option;
- Relative administrative/compliance burdens of certification on first stage and later stage manufacturers; and
- Scope of compliance ''envelopes'' prescribed by first stage manufacturers and ability of intermediate and final stage manufacturers to stay within those envelopes.[1]

NHTSA invites comment on whether additional issues should be addressed by the negotiating committee.

III. Procedures and Guidelines

The following proposed procedures and guidelines will apply to this process, subject to appropriate changes made as a result of comments on this Notice or as determined to be necessary during the negotiating process.

A. Notice of Intent To Establish Advisory Committee and Request for Comment

In accordance with the requirements of FACA, an agency of the federal government cannot establish or utilize a group of people in the interest of obtaining consensus advice or recommendations unless that group is chartered as a federal advisory committee. It is the purpose of this Notice to indicate NHTSA's intent to create a federal advisory committee, to identify the issues involved in the rulemaking, to identify the interests affected by the rulemaking, to identify potential participants who will adequately represent those interests, and to ask for comment on the use of regulatory negotiation and on the identification of the issues, interests, procedures, and participants.

B. Facilitator

Pursuant to the NRA (5 U.S.C. 566), a facilitator will be selected to serve as an impartial chair of the meetings; assist Committee members to conduct discussions and negotiations; and manage the keeping of minutes and records as required by FACA. The facilitator will chair the negotiations, may offer alternative suggestions toward the desired consensus, will help participants define and reach consensus, and will determine the feasibility of negotiating particular issues.

C. Representation

The Committee will include representatives from NHTSA and from the organizations and interests listed below. Each representative may also name an alternate, who will be encouraged to attend all Committee meetings and will serve in place of the representative if necessary. The NHTSA representative is the Designated Agency Official (DAO) as required by FACA (5 U.S.C. 10) and will participate in the deliberations and activities of the Committee with the same rights and responsibilities as other Committee members. The DAO will be authorized to fully represent the agency in the discussions and negotiations of the Committee.

NHTSA intends to invite the following organizations and interests to participate in the negotiated rulemaking by identifying an individual to serve as a member of the Committee. The organizations listed have been contacted by the facilitator and have indicated a willingness to serve on the Committee. NHTSA believes that, in addition to the organizations listed, there may be other interests that should be included on the Committee.

The organizations and interests that should participate in the negotiated rulemaking are:

- Representatives of large, incomplete vehicle manufacturers (e.g., Ford Motor Company, General Motors Corporation);
- Representatives of specialty domestic manufacturers (e.g., Navistar, Freightliner);
- Representatives of component manufacturers (e.g., Atwood Mobile Products, Delphi Chassis Systems, Bornemann Products, Inc.);
- National Truck and Equipment Association;
- Recreational Vehicle Industry Association;
- School Bus Manufacturers Technical Council;
- Mark III;
- National Automobile Dealers Association;
- Veridian Engineering (formerly Calspan);
- Association of Fleet Operators;
- Paralyzed Veterans of America;
- National Mobility Equipment Dealers Association;
- Representatives from Consumer Groups.

NHTSA will consider applications for representation from organizations or interests not appropriately represented by those listed above. Please identify such organizations and interests if they exist and explain why they should have separate representation on the Committee.

D. Applications for Membership

Each application for membership or nomination to the Committee should include: (i) the name of the applicant or nominee and the interest(s) such person would represent; (ii) evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposes to represent; and (iii) a written commitment that the applicant or nominee would participate in good faith. Please be aware that each individual or organization affected by a final rule need not have its own representative on the Committee and

[1] Compliance envelopes represent the level of certification attested to by incomplete vehicle manufacturers of chassis cabs. There are three compliance statements which the first level manufacturer can make with regard to an incomplete vehicle. The manufacturer may affix to the vehicle a statement that:

(1) the vehicle, when completed, will conform to the safety standard if no alterations are made in the identified components of the incomplete vehicle;

(2) there are specific conditions of final manufacture under which the manufacturer specifies that the completed vehicle will conform to the safety standard; or

(3) conformity with the safety standard is not substantially affected by the design of the incomplete vehicle and no representation is made as to conformity with that safety standard.

Any safety standards for which the first level manufacturer has not certified the vehicle must be certified by the final stage manufacturer, and all other work must be performed within the terms of the incomplete vehicle manufacturer's certification to allow that certification to remain valid.

that the size of the Committee is limited by statute. Rather, each interest must be adequately represented, and the Committee should be fairly balanced.

E. Good Faith

Participants must be committed to negotiate in good faith. Therefore, it is important that senior officials within each interest group be designated to represent that interest. No individual will be required to ''bind'' the interests he or she represents, but the individual should be able to represent the interest with confidence. For this process to be successful, the interests represented should be willing to accept the final Committee product.

F. Notice of Establishment

After evaluating comments received as a result of this Notice, NHTSA will issue a notice announcing the establishment and composition of the Committee, unless it determines that such action is inappropriate in light of comments received. After the Committee is chartered, the negotiations will begin.

G. Administrative Support and Meetings

Staff support will be provided by NHTSA, and meetings will take place in Washington, DC.

H. Consensus

The purpose of the Committee is to develop consensus on an outline for a proposed rule. ''Consensus'' means the unanimous concurrence among the interests represented on the Committee, unless the Committee explicitly adopts a different definition.

I. Notice of Proposed Rulemaking

The Committee's objective is to prepare a report containing an outline of its recommendations for a notice of proposed rulemaking. This report may also include suggestions for specific preamble and regulatory language based on the Committee's recommendations, as well as information relevant to a regulatory evaluation and an evaluation of the impacts of the proposal on small businesses. To this end, NHTSA expects the Committee to address cost/benefit, paperwork reduction and regulatory flexibility requirements. If consensus cannot be achieved for some issues, the report will identify the areas of agreement and disagreement, and explanations for any disagreement. NHTSA will use the Committee report to draft a notice of proposed rulemaking, regulatory evaluation, and other analyses, as appropriate.

NHTSA will accept the Committee proposal, keeping in mind its statutory authority and other legal requirements. In the event that the agency must reject an issue within the proposal, the preamble to a NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the agency decision to reject the Committee recommendations.

J. Committee Procedures

Under the general guidance of the facilitator, and subject to legal requirements, the Committee will establish detailed procedures for the meetings. The meetings of the Committee will be open to the public. Any person attending the Committee meetings may address the Committee if time permits or file statements with the Committee.

K. Record of Meetings

In accordance with FACA requirements, the facilitator will prepare minutes of all Committee meetings. These minutes will be placed in the public docket for this rulemaking.

L. Tentative Schedule

NHTSA plans to convene the first of five monthly meetings approximately fifteen days after publication of a notice of establishment of the advisory committee. The date and exact location of that meeting will be announced in the agency's notice of establishment of the advisory committee. Meetings are expected to last two to three days each. The negotiation process will proceed according to a schedule of specific dates that the Committee devises at its first meeting. NHTSA will publish a single notice of the schedule of all future meetings in the **Federal Register**, but will amend the notice through subsequent **Federal Register** notices if it becomes necessary to do so.

The first meeting will commence with an orientation and regulatory negotiation training program conducted by the facilitator.

IV. Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the

Department of Transportation *(http://dms.dot.gov/).*

2. On that page, click on ''search.''

3. On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Issued on: May 14, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–12629 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 64, No. 97

Thursday, May 20, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–005–3]

Agency Information Collection Activities; OMB Approval Received

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Office of Management and Budget's approval of a collection of information contained in an Animal and Plant Health Inspection Service final rule amending the regulations concerning the interstate movement of fruit from Hawaii.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Groves, APHIS Information Collection Coordinator, MRPBS, APHIS, suite 3D04, 4700 River Road Unit 123, Riverdale, MD 20737–1235; (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1998, we published in the **Federal Register** (63 FR 65645–65649, Docket No. 97–005–2) a final rule amending the regulations at 7 CFR part 318, ''Hawaiian and Territorial Quarantine Notices.'' This rule contains information collection requirements.

The Office of Management and Budget (OMB) approved the collection of information requirements with respect to this final rule under OMB control number 0579–0123 (expires August 31, 2000).

Done in Washington, DC, this 14th day of May 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–12717 Filed 5–19–99; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–107–4]

Agency Information Collection Activities; OMB Approval Received

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Office of Management and Budget's approval of a collection of information contained in two Animal and Plant Health Inspection Service final rules amending the regulations concerning the importation of fruits and vegetables into the United States.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Groves, APHIS Information Collection Coordinator, MRPBS, APHIS, suite 3D04, 4700 River Road Unit 123, Riverdale, MD 20737–1235; (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1998, and January 20, 1999, we published in the **Federal Register** two final rules that amended the regulations at 7 CFR part 319, ''Foreign Quarantine Notices.'' (See 63 FR 65650–65657, Docket No. 97–107–2, and 64 FR 2993–2995, Docket No. 97–107–3.) These rules contain information collection requirements.

The Office of Management and Budget (OMB) approved the collection of information requirements with respect to these final rules under OMB control number 0579–0136 (expires December 31, 2001).

Done in Washington, DC, this 14th day of May 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–12718 Filed 5–19–99; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF AGRICULTURE

Forest Service

Yellowstone Pipeline Missoula to Thompson Falls Reroute, Lolo and Idaho Panhandle National Forests; Mineral, Missoula, and Sander Counties, Montana, and Shoshone County, Idaho

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service is revising a previous notice of intent to prepare an environmental impact statement (EIS), regarding Yellowstone Pipe Line Company's proposal for a new petroleum products pipeline between Missoula and Thompson Falls, Montana. We have changed the schedule, scope, responsible official, and cooperating agencies for this EIS.

DATES: Under the current schedule, the draft EIS should be available for review by July, 1999, and the final EIS should be released by January, 2000.

ADDRESSES: Mail comments or inquiries regarding this notice to Terry Egenhoff, Environmental Coordinator, Lolo National Forest, Bldg. 24 Fort Missoula, Missoula, MT 59804–7297.

FOR FURTHER INFORMATION CONTACT: Terry Egenhoff, (406) 329–3833.

SUPPLEMENTARY INFORMATION: This notice revises the Yellowstone Pipeline EIS notice published in the **Federal Register** on Friday, December 20, 1996 (61 FR 67302–67303). The changes involve schedule, scope, responsible official, and cooperating agencies.

Schedule changes: Under the current schedule, the draft EIS should be available for review in July 1999, and the final EIS should be released in January 2000.

Scope changes: We have added a similar and connected action to the scope of the EIS. The original scope was in response to the Yellowstone Pipe Line Company's proposal for a new 75-mile pipeline between Missoula and Thompson Falls, Montana. The Forest Service has expanded the scope to cover modifications proposed to 82 miles of YPL's existing pipeline between Thompson Falls and Kingston, Idaho. One of the alternatives now included in the EIS is an all-new 138-mile pipeline,

parallel to Interstate 90, from Missoula to Kingston. That alternative would involve Federal lands administered by the Bureau of Land Management, as well as National Forest System lands administered by the Forest Service. In all other EIS alternatives, the only Federal lands affected would be National Forest System lands. The Mineral Leasing Act (30 U.S.C. 185(c)) allows Federal agencies to make this type of pipeline permitting decision when the lands administered by only one Federal agency are affected. However, the Act places this permitting authority with the Department of the Interior when lands administered by more than one Federal agency are involved.

The responsible official for the decision resulting from this EIS (depending on the selected alternative) is either: Dale N. Bosworth, Regional Forester, USDA Forest Service, Northern Region, PO Box 7669, Missoula, MT 59807 (if National Forest System lands are the only Federal lands affected by the decision); or Martha G. Hahn, State Director, USDI Bureau of Land Management, Idaho State Office, 1387 South Vinnell Way, Boise, ID 383709–1657 (if Federal lands managed by more than one agency are affected by the decision).

Cooperating Agency changes: Formal EIS cooperating agencies (40 CFR 1501.6) include: the Bureau of Land Management, the Corps of Engineers, and the Montana Department of Environmental Quality (as lead agency for all Montana State agencies). Other agencies with permitting or consulting roles that are involved in the preparation of this EIS include: USDOT Office of Pipeline Safety; USEPA; USFWS; FHWA; Montana DRNC; Montana DOT; Montana Fish, Wildlife and Parks; Montana SHPO; Idaho DEQ; Idaho Dept. of Water Resources; Idaho Fish and Game, Idaho SHPO; Confederated Salish and Kootenai Tribes of the Flathead Nation; Missoula, Mineral, Sanders, and Shoshone counties; Missoula City-County Health; and the Green Mountain Conservation District.

(Authority: 40 CFR 1501.7; 43 CFR 2880; Forest Service Handbook 1909.15, sec. 21.2, 57 FR 43201)

Dated: May 11, 1999.

Deborah L.R. Austin,

Forest Supervisor.

[FR Doc. 99–12735 Filed 5–19–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Illinois River Landscape Management Projects, Siskiyou National Forest, Josephine County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA, Forest Service (USFS), as a cooperating agency, the USDI Bureau of Land Management (BLM), will prepare an Environmental Impact Statement (EIS). The purpose of the EIS is to analyze and disclose the environmental impacts of a site-specific proposal to commercially harvest and regenerate timber, construct, reconstruct and decommission roads, implement timber stand improvement activities, conduct prescribed burns and implement ecosystem restoration projects. The activities are proposed in the East Fork and West Fork Illinois River Watersheds located on lands administered by the Siskiyou National Forest, Illinois Valley Ranger District, and the Bureau of Land Management, Medford District, Grants Pass Resource Area, Josephine County, Oregon.

The USFS/BLM Proposed Action will be in compliance with the Siskiyou National Forest Land and Resource Management Plan (1989), the Bureau of Land Management, Medford District, Resource Management Plan (1995), and the Northwest Forest Plan (1994) which provide overall guidance for forest management in the respective Agency's planning areas. This proposal is scheduled for implementation during Fiscal Years 2000–2003.

The Siskiyou National Forest, together with the Bureau of Land Management, Medford District, invite written comments concerning the scope of the analysis in addition to those comments already received as a result of local public participation activities. The Forest Service will also give notice of the full environmental analysis and decision-making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Issues and comments concerning the scope, implementation and analysis of the proposed action must be received in writing before June 25, 1999.

ADDRESSES: Submit written issues with the Proposed Action to Joel King, District Ranger, Illinois Valley Ranger District, 26568 Redwood Highway, Cave Junction, Oregon 97523, and/or Robert C. Korfhage, Grants Pass Resource Area Field Manager, Bureau of Land Management, Medford District, 3040 Biddle Road, Medford, Oregon 97504.

FOR FURTHER INFORMATION CONTACT: Direct questions about the Proposed Action and EIS to either the Forest Service or BLM contacts. The Forest Service contact is Peter Gaulke, Environmental Coordinator, Siskiyou National Forest, PO Box 440, Grants Pass, Oregon 97528, phone (541) 471–6758. The BLM contact is Doug Parker, Interdisciplinary Team Leader, Bureau of Land Management, Medford District, 3040 Biddle Road, Medford, Oregon 97504, phone (541) 770–2388.

SUPPLEMENTARY INFORMATION: The Upper Illinois River Landscape Management Projects planning area contains approximately 37,000 acres in the East Fork Illinois River Watershed, and 51,000 acres in the West Fork Illinois River Watershed.

The legal description of the East Fork Illinois River Watershed Planning Area is: T.17N., R.05E., Sections, 1–4, 9–11; T.17N., R.06E., Section 6; T.18N., R.05E., Sections 1–5, 8–17, 20–36; T.18N., R.06E., Sections 5–8, 17–20, 30–31; T.19N., R.05E., Sections 31–36; T.19N., R.06E., Sections 31–32, Humbolt Meridian; T.39S., R.07W., Sections 7–9, 16–21, 29–31; T.39S., R.08W., Sections 11–16, 20–28, 33–36; T.40S., R.07W., Sections 19–21, 28–32; T.40S., R.08W., Sections 2–4, 10–11, 14–15, 21–28, 33–36; T.41S., R.07W., Sections 5–8, 16–18; T.41S., R.08W., Sections 1–5, 9–17, Willamette Meridian.

The legal description of the West Fork Illinois River Watershed Planning Area is: T.18N., R.03E., Sections 1, 12; T.18N., R.04E., Sections 1–5, 8–15, 24: T.18N., R.05E., Sections 5–8, 17–20; T.19N., R.04E., Sections 32–36; T.19N., R.05E., Sections 31–32, Humbolt Meridian; T.39S., R.08W., Sections 30–31; T.39S., R.09W., Sections 18–20, 24–36; T.39S., R10W., Sections 24–26, 34–36; T.40S., R.08W., Sections 6, 9, 20, 31–32; T.40S., R09W., Sections 1–24, 26–34; T.40S., R.10W., Sections 1–2, 12–13, 24–26, 35–36; T.41S., R08W, Sections 4–9, 16–18; T,41S., R.09W., Sections 2–10, 12–18; T.41S., R.10W., Sections 1–2, 11–13, Willamette Meridian. Within these legal descriptions, only Forest Service and Bureau of Land Management managed lands will be considered for management activities.

The Forest Service is proposing to implement activities identified on its 5-Year Action Plan within the East Fork Illinois River Watershed. Activities include, in part, the Kingfish Timber Sale, Elder Trail Timber Sale, and Cougar Ridge Timber Sale, involving approximately 2485 acres of harvest units. Silvicultural prescriptions include commercial thinning, small group selection and regeneration harvests. The Upper Illinois River Landscape Management Projects includes precommercial thinning for forest health and stand development,

road decommissioning, prescribed burning for wildlife habitat improvement and fuels reduction, and stream restoration activities. These proposed activities will involve Matrix (MA–14), Partial Retention (MA–13), Riparian Reserve (MA–11) and Late-Successional Reserve (MA–8) land allocations.

Projects activities associated with the Esterly Lakes Landscape Project are planned in both the East Fork and West Fork Illinois River Watersheds on BLM administered lands. These projects are being planned as a part of the implementation of the Northwest Forest Plan and the Medford District's Resource Management Plan. The Easterly Lakes Landscape Project includes a mix of forest stand thinning to promote forest health and desired forest habitat conditions, timber harvesting, prescribed burning to reduce fire hazard and manipulate stand composition, and young stand management such as thinning and/or brushing on BLM administered lands. It will also include the restoration of declining special vegetation types and habitats, stream and riparian reserve restoration, and various types of roadwork.

The Purpose and Need for the Proposed Action is to implement management direction in the Upper Illinois River planning area and specifically focus on:

(1) A healthy and resilient ecosystem and watershed in the planning area.

(2) Meet Visual Resource Management Objectives.

(3) Riparian reserves for Aquatic Conservation Strategy Objectives, water quality, and fisheries within the project areas in the long-term.

(4) Silvicultural treatments that maintain or improve forest health.

(5) Harvest timber to meet the demand for wood products.

(6) Unique wildlife or botanical habitats identified in the respective planning documents.

In preparing the EIS, the Forest Service will tier to the Northwest Forest Plan, the BLM Medford District's Resource Management Plan, and the Siskiyou National Forest's Land and Resource Management Plan as amended. The Forest Service will also consider issues submitted to the Proposed Action, and develop additional alternatives to the proposed action that respond to the significant issues with the Proposed Action. The no action alternative will be considered.

Public participation will be important at several times during the analysis. The first time is during the scoping period [Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act (CFR) at 40 CFR 1501.7]. The Agency will be seeking written issues with the Proposed Action from Federal, State, and local agencies, any affected Indian tribes, and other individuals who may be interested in or affected by the Proposed Action. This input will be used to develop additional alternatives. The scoping process includes:

- Identifying potential issues;
- Selecting significant issues with the Proposed Action, needing in-depth analysis;
- Eliminating insignificant issues; issues that have been analyzed and documented in a previous EIS, issues that controvert the need for the Proposed Action, or issues that are outside the authority of the Responsible Official to decide;
- Exploration of additional alternatives based on the issues identified during the scoping process; and
- Identification of potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for review by July 1999. The comment period for the Draft EIS will be 45 days from the date that the EPA published the Notice of Availability appears in the **Federal Register.**

The Forest Service believes it is important to give Reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a Draft EIS must structure their participation in the environmental review process of the proposal so that it is specific, meaningful, and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 453 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 60-day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

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

After the 60-day comment period ends on the draft EIS, comments will be considered and analyzed by the Agency in preparing the final EIS. The final EIS is scheduled for completion by October 1999. In the final EIS, the Forest Service is required to respond to the comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decsion regarding the proposal. A final EIS is expected in November 1999.

The Forest Service Responsible Official will be Mike Lunn, Siskiyou National Forest Forest Supervisor. The Bureau of Land Management Responsible Office will be Robert C. Korfhage, Grants Pass Resource Area Field Manager. They will consider the final EIS, applicable laws, regulations, policies, and analysis files in making their decisions. The Responsible Officials will document the decision and rationale in their Record of Decision. The Forest Service decision will be subject to appeal by the general public under 36 CFR 215. The Bureau of Land Management decision will be subject to protest by the general public in accordance with 43 CFR Part 5003.

Dated: May 10, 1999.

J. Michael Lunn,

Forest Supervisor.

[FR Doc. 99–12692 Filed 5–19–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paintbrushes and Brush Heads From The People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of the antidumping duty administrative review

of natural bristle paintbrushes and brush heads from the People's Republic of China.

SUMMARY: On January 13, 1999, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on natural bristle paintbrushes and brush heads (paintbrushes) from the People's Republic of China (PRC). This review covers one exporter of the subject merchandise, Hebei Animal By-Products Import and Export Corporation (HACO), during the period February 1, 1997 through January 31, 1998.

We gave interested parties an opportunity to comment on our preliminary results. After considering comments presented by both parties, we have not changed the final results from those presented in the preliminary results of review, and have determined that sales have been made below normal value (NV).

EFFECTIVE DATE: May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Nulman, Laurel LaCivita, or Maureen Flannery, Antidumping/ Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4052, 482–4236, or 482–3020, respectively.

Applicable Statute

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 refer to the regulations codified at 19 CFR part 351 (April 1998).

Background

The Department published the preliminary results of this antidumping duty administrative review on January 13, 1999 (64 FR 2192). We received comments from HACO and from the Paint Applicator Division of the American Brush Manufacturers Association (the petitioner). We also received rebuttal comments from both parties. HACO requested a public hearing, which was held on February 19, 1999. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of Review

Imports covered by this review are shipments of natural bristle paintbrushes and brush heads from the PRC. Excluded from the order are paintbrushes and brush heads with a blend of 40% natural bristles and 60% synthetic filaments. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

This review covers the period February 1, 1997, through January 31, 1998.

Analysis of the Comments Received

Comment #1: Application of Adverse Facts Available to HACO

HACO argues that the facts of the case do not support the Department's preliminary determination that the margin for HACO should be based on total adverse facts available (AFA). HACO primarily contends that neither HACO nor its supplier failed verification and, therefore, application of total facts available is not appropriate (see discussion below). In addition, HACO maintains that both HACO and its supplier did act to the best of their ability to comply with the Department's request for information under the circumstances, and therefore the application of adverse facts available is also inappropriate (see discussion below).

HACO contends that the Department will use AFA only when an interested party is wholly uncooperative, fails to submit sufficient or unverifiable responses to the Department's requests, or significantly impedes the proceeding, citing *Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Administrative Review,* 64 FR 76, 82 (January 4, 1999). HACO also cites as support *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, 56616 (October 22, 1998) (*Chilean Mushrooms*), where HACO claims that the Department did not apply AFA because the respondent met the Department's five-part test to demonstrate that it acted to the best of its ability in that investigation. HACO describes the five-part test as follows: (1) submissions of information were made timely, (2) respondent substantially cooperated with the Department's information requests, (3) some successful verification of the response was made, (4) for unverifiable information, there was alternative information available to allow appropriate adjustments to the submitted data, and (5) the Department was able to make adjustments for the identified deficiencies and was able to use the submitted information without undue difficulties.

HACO argues that, even in cases where a party may not have acted ''to the best of its ability'' in providing information requested by the Department, the Department will not use AFA if the party has been otherwise ''cooperative,'' citing *Roller Chain, Other Than Bicycle, from Japan: Preliminary Results and Partial Rescission of Antidumping Administrative Review,* 63 FR 25450, 25455 (May 8, 1998).

HACO maintains that both HACO and its supplier fully cooperated with the Department at every stage of the review. HACO claims that all of its submissions in this review and information provided at verification more than substantially complied with the Department's requests, and that HACO and its supplier fully met the five part-test to avoid application of AFA, and therefore that the finding of AFA in this review is in error. HACO claims that at verification of HACO all terms of sale for this review were verified, and that HACO's supplier reported all factor inputs and promptly provided all information requested by the verifiers, causing the Department to have no basis to resort to AFA in the final results. HACO finally contends that, in this review, there is substantial evidence on the record that HACO acted ''to the best of its ability'' at verification.

As an alternative argument, HACO claims that where the Department could not verify a factor input, it should consider using partial facts available. HACO points out that in the case of electricity, where HACO's supplier did not report the correct figure, the Department should consider using a partial facts available figure such as the electricity charge for a prior review or the petition. HACO claims that in all other situations the factor values submitted by HACO were reasonable.

The petitioner agrees with the Department's preliminary determination that the margin for HACO should be based on AFA, due to HACO's failure of verification in this review. The petitioner states that, according to 19 U.S.C. § 1677(a)(2)(D) (section 776(a)(2)(D) of the Act), when a respondent has failed verification, the Department must base the margin on the facts otherwise available, and that the Department is authorized to make an adverse inference if it determines that

the respondent did not act to the best of its ability in responding to the Department's requests for information. Id. 19 U.S.C. § 1677e(c).

The petitioner states that in this review the Department had determined that HACO's data could not be verified and that HACO had not acted to the best of its ability, and therefore that the Department was correct in selecting the facts otherwise available rate of 351.92%, HACO's own rate from a prior review as well as its current cash deposit rate.

The petitioner further argues that the Department's determination that HACO was uncooperative, and therefore did not act to the best of its ability, is consistent with the Department's standard practice, as in *Certain Welded Carbon Steel Pipes and Tubes From India: Final Results of Antidumping Duty Administrative Review,* 63 FR 32825, 32826 (June 16, 1998) (*Steel Pipes from India*), where a respondent did not act to the best of its ability because it failed to provide information at verification essential to the establishment of the accuracy of submitted data. The petitioner further argues that even if respondent provides timely comments to all prior requests for information, a respondent that fails verification has been determined uncooperative, and therefore the Department should apply AFA, as in *Certain Welded Carbon Steel Pipes from Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53820 (October 16, 1997).

DOC Position: We agree with the petitioner. As we explained in the preliminary results of review, we were unable to verify substantial sections of the questionnaire response at the verification of HACO's supplier. Consequently, we found in our preliminary results that the discrepancies were so significant as to constitute a failure of verification. We also determined that HACO failed to provide the Department with adequate supporting documentation at verification so that a significant portion of its questionnaire response could be confirmed. (*See Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China; Preliminary Results and Partial Recission of Antidumping Duty Administrative Review,* 64 FR 2192, 2193 (January 13, 1999) (*Preliminary Results*).)

Where a party provides information requested by the Department but the information cannot be verified as required by section 782(i) of the Act, section 776(a)(2)(D) of the Act requires the Department to use facts otherwise available (FA) in reaching the applicable determination. Therefore, in accordance with section 776(a) of the Act, the use of FA is appropriate for HACO. *See Extruded Rubber Thread from Malaysia, Final Results of Antidumping Duty Administrative Review,* 62 FR 33588 (June 9, 1997).

Section 776(b) of the Act authorizes the Department to use AFA whenever it finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. Because HACO failed to substantiate large portions of its questionnaire response, including the statutorily required factors of production information, such as number of labor hours worked and per unit quantities consumed of primary material inputs, we maintain our determination that HACO did not cooperate to the best of its ability with our requests for information. *See Preliminary Results* and the *Determination of Adverse Facts Available Based on Verification Failure in the Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (Facts Available Memorandum),* dated December 30, 1998.

We disagree with HACO's characterization of the Department's reasons for not applying AFA in the *Chilean Mushrooms* case cited above. In *Chilean Mushrooms,* the Department applied the criteria established in section 782(e) of the Act, under which the Department ''shall not decline to consider information that is submitted by an interested party,'' and found that the rejection of the responses in their entirety was inappropriate based on the facts of that proceeding. (*See Chilean Mushrooms,* 63 FR at 56617.) Section 782(e) of the Act instructs the Department to consider information if (1) the information is submitted within the established deadlines, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching a determination, (4) the interested party acted to the best of its ability in providing the required information, and (5) the information can be used without undue difficulties.

Based on the facts of this proceeding, we disagree that HACO met all of the criteria established by section 782(e). *Comment 5* through *Comment 14* of this notice discuss why the information submitted by HACO could not be verified, and cannot be used as a reliable basis for calculating an antidumping duty margin. Because the information presented in the questionnaire responses differs so greatly from the information presented at verification, and because we were unable to establish that the data presented at verification were for the relevant sizes of brushes, neither the questionnaire responses nor the data presented at verification form a reliable basis for calculating a dumping margin. Furthermore, since HACO's supplier's responses did not reflect the information contained in the books and records of the company, it cannot be construed that HACO's supplier acted to the best of its ability to provide the requested information to the Department. (*See Steel Pipes from India,* 62 FR 32826.)

We have carefully considered HACO's submitted information in the current review, but could not use it to calculate a dumping margin since we could not tie the submitted information to the records provided at verification. Therefore, pursuant to section 776(b) of the Act, we are using AFA to determine HACO's margin for these final results.

With regard to HACO's argument to use partial facts available, we disagree because HACO's supplier failed to substantiate any of its factors of production. These discrepancies, detailed in the Department's Memorandum from Mike Strollo and Laurel LaCivita to Edward Yang: *Verification of Factors of Production for HACO's Supplier in the Antidumping Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (PRC) (Supplier's Verification Report),* were so significant as to constitute a failure of verification. Therefore, for the reasons stated above, we are continuing to apply AFA in these final results of review.

Comment #2: Selection of Adverse Facts Available Margin

The petitioner contends that the margin of 351.92% was the only reasonable selection available to the Department under the circumstances, because it was based on actual data HACO submitted in the 1994–1995 administrative review of this order; see *Natural Bristle Paintbrushes from the People's Republic of China: Final Results of Antidumping Administrative Review,* 61 FR 52917 (October 9, 1996). The petitioner also argues that, because this is HACO's current cash deposit rate, it cannot even be characterized as adverse to HACO. The petitioner cites 19 U.S.C. § 1677e(c) (section 776(c) of the Act), and claims that, because this rate is HACO's own margin it is probative and can be corroborated, and any margin lower than 351.92% would effectively reward HACO for failure of verification.

DOC Position: We agree with the petitioner. Under section 776(b) of the Act, AFA may include reliance on information derived from: (1) the petition, (2) a final determination in the investigation, (3) any previous review under Section 751 of the Act, or (4) any other information placed on the record. To corroborate secondary information (items (1)–(3)), the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. For a discussion on how the Department corroborated the secondary information applied as AFA in this review, *see Preliminary Results,* 64 FR 2193.

However, unlike other types of information, such as surrogate values, there are no independent sources for calculated antidumping margins. The only source for calculated margins is an administrative determination. In the preliminary results, we used the highest rate from any prior segment of the proceeding, 351.92%, which was the rate calculated for HACO in the review covering the period February 1, 1994 through January 31, 1995. (*See Preliminary Results,* 64 FR 2193.) Because this margin is based on the rate calculated for a relatively recent review using HACO's own price data, and because there is no information that this rate is not appropriate, we continue to determine that a margin of 351.92% is appropriate to use as AFA.

Comment #3: Sufficiency of Time Allowed for HACO to Prepare for Verification

HACO claims that the Department did not allow HACO enough time to prepare for verification since it released the verification outline on Tuesday evening, September 22, 1998, while HACO's counsel was already in transit to China. As a result, HACO claims, its counsel did not see the verification outline for the first time until arriving at HACO on Saturday, September 26, 1998, and only then prepared for the Department's verification beginning on Monday, September 28, 1998.

The petitioner notes that, although the Department issued its verification outline six days before verification, according to HACO's own account of the facts, HACO failed to obtain the outline until two days prior to verification. The petitioner further claims that the Department notified HACO seventeen days in advance of the date it intended to conduct verification and thus HACO could have begun preparation prior to receipt of the outline.

DOC Position: We agree with the petitioner. Our standard verification outline was issued sufficiently in advance of verification to allow adequate preparation time. As the petitioner notes, HACO need not have waited for a standard verification outline to begin preparing for verification. For further details, see the *Memorandum from Laurel LaCivita to Edward Yang: Proprietary Issues in the Final Results of Review,*' dated May 6, 1999 *(Proprietary Issues Memorandum).* Furthermore, whenever HACO or its supplier was unprepared for a verification element, the verifier allowed company officials time to gather documentation while the verification took place. See, for example, the *Supplier's Verification Report* at pages 4 and 5. Therefore, HACO and its supplier were not denied the appropriate amount of time to prepare for verification, and cannot attribute verification failure to the date of issuance of the standard verification outline.

Comment #4: Sufficiency of Time Allowed for HACO to Comment on Verification Reports

HACO claims that on December 31, 1998, the Department announced its preliminary results of review and provided copies of its verification reports in this review. HACO contends the Department did not allow HACO enough time to comment on the verification reports separately and to identify any errors and misstatements in them before the preliminary results of review were issued. As a result, HACO contends, the preliminary results of review were prejudiced by errors found in the verification report.

DOC Position: On December 30, 1998 the Department released the *Supplier's Verification Report,* the *Memorandum from Mike Strollo and Laurel LaCivita to Edward Yang: Verification of Sales for Hebei Animal By-Products Import and Export Corporation (HACO) in the Antidumping Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (PRC); (HACO's Verification Report))* and its *Facts Available Memorandum,* dated December 30, 1998. On January 13, 1999, the Department published in the **Federal Register** its preliminary results of review. Upon publication of the preliminary results of review, interested parties were invited to comment on any aspect of the preliminary decision, including material contained in our verification reports or any other matter on the record of this review. We also held a public hearing on February 19, 1999, during which any interested party could voice comments regarding this review. The release of the verification reports and subsequent publication of the preliminary results of review and invitation for comments is a process intended to give interested parties the opportunity to identify errors made in this review. By submitting comments and participating in the hearing held at its request, HACO availed itself of the opportunity to identify any errors or misstatements in the verification reports or preliminary results prior to publication of these final results of review. HACO's specific comments with respect to the verification are addressed below. Therefore, this review has not been prejudiced by virtue of the date on which the reports were released.

Comment #5: Whether Failure of Verification Occurred at HACO

HACO contends that, although the Department treats its verification as a single visit, it in fact conducted two separate verifications, one at HACO and one at HACO's supplier.

HACO contends that evidence on the record in this review does not support the Department's conclusion that failure of verification occurred, with either HACO or HACO's supplier. HACO further argues that neither HACO nor its supplier at any time refused to undergo verification or failed to comply with the instructions or requests of the Department.

HACO claims that the verification of HACO was successful. HACO states that although it provided complete information throughout the verification to support its prior submissions, the Department's verification at HACO went far beyond the requirements of verifying the factual information supporting HACO's antidumping submissions. HACO claims that the primary focus of the verifiers was to examine the separate rates issue, to determine the number of shipments occurring during the POR, and to determine whether there were Customs marking violations. HACO claims that despite this focus, the verification conducted at HACO did not produce any evidence that would favor the petitioner's claims. HACO also states that the verification provided evidence that HACO did not engage in any Customs fraud.

HACO further notes that during verification at HACO there was confusion over how sales of subject merchandise were transported between HACO and the United States, and points to documentation already on the record of this review in support of its position on these issues.

DOC Position: We agree that we conducted two separate verifications, one at HACO and one at HACO's

supplier. However, the cover letter to our standard questionnaire instructed HACO to send the factors of production questionnaire, Section D, to the companies responsible for the manufacture of the subject merchandise. Therefore, HACO was made aware of its responsibility to coordinate the responses of its suppliers.

We agree that the verification at HACO itself was successful, despite the minor discrepancies noted in *HACO's Verification Report* between the information provided in HACO's questionnaire response and provided at verification. However, we disagree that HACO's verification went far beyond the requirements of substantiating the factual information provided in its antidumping submissions. The Department conducted verification using standard techniques and procedures which were set forth in the verification outline.

We disagree with HACO's characterization of the Department's priorities during the verification. The primary focus of the verifiers during HACO's verification was to complete the tasks enumerated in the verification outline. These tasks include an examination of evidence of whether there is a de jure and de facto absence of PRC government control over HACO's export activities.

With respect to the Customs marking issue, HACO placed information in Exhibit 6 of its August 27, 1998 submission which justifiably led to a number of questions on the part of the petitioners concerning the circumstances surrounding the sales under review. Consequently, these documents, and others, which are normally included in the correspondence file and examined as a standard part of the verification of completeness and volume and value, were examined at verification.

Finally, as the *HACO's Verification Report* shows, HACO corrected the terms of sale reported in its questionnaire response prior to verification, so that its questionnaire response was in conformity to the evidence concerning the transportation of the subject merchandise from HACO to the United States. Consequently, we disagree with HACO's contention that any confusion whatsoever existed with respect to the matter. Furthermore, this issue was not among the problematic ''findings'' of the verification. (*See HACO's Verification Report* at page 2.)

Comment #6: Verification Failure at HACO's Supplier

HACO states that following the successful verification of HACO, the Department erroneously concluded that HACO's supplier failed to cooperate to the best of its ability because of the supplier's failed verification.

HACO disagrees that discrepancies between the questionnaire response and information obtained at the verification of HACO's supplier were significant enough as to constitute a failure of verification. The sections of the questionnaire response which the Department reported it was unable to verify at HACO's supplier, HACO says, refer to factor inputs which were not at issue prior to verification. HACO claims that the factor values reported in questionnaire responses were consistent with the supplier company's records, but that the Department refused to accept these records, instead requiring that production factors be tied to a financial statement which HACO's supplier does not maintain in the regular course of business, and therefore could not provide. Thus, HACO claims, the Department acted inconsistently with the law at 19 CFR 353.307(d) which requires the person being verified to provide the information it used to prepare the data submitted in order to verify the accuracy and completeness of the submitted factual information.

HACO cites five such discrepancies regarding factor inputs, as enumerated in the *Facts Available Memorandum*, including (1) the quantity and value of the supplier's sales and production, (2) product codes and sizes, (3) the reported weights of the inputs vs. the verified weights, (4) the labor hours, and (5) energy consumption. HACO points out that a financial statement would not serve the purpose of verifying factor inputs because, while it may help determine the number of nails or bristles purchased, it would not reveal their weights or how much were used in each manufactured brush. HACO points out that, as a small factory, HACO's supplier did not maintain a detailed financial statement, and the Department should consider verification in that context. Thus, HACO states, the Department's requirement that HACO provide a financial statement which could trace factor inputs was both incorrect and inconsistent with the law.

DOC Position: We disagree with HACO that its supplier was able to substantiate its questionnaire response. We note that at no time during the verification or in the preliminary results of review, did the Department attribute the verification failure of HACO's supplier to the quality of its financial statements. For the reasons set forth in the *Supplier's Verification Report, Adverse Facts Available Memorandum*, and *Preliminary Results*, and reiterated below, HACO's supplier did not successfully substantiate its questionnaire response. At verification, the Department was not able to confirm the quantity of paintbrushes produced by the factory. We could not confirm which merchandise was actually shipped to the United States, nor confirm that the paintbrushes presented for the confirmation of factor values were the same as the merchandise shipped to the United States. We found that the weights of the paintbrush components examined at verification differed significantly from the reported weights. We noted that HACO's supplier could not confirm the reported number of labor hours required to produce the subject merchandise. We noted that the energy consumption rate could not be confirmed despite the fact that HACO accurately reported its total energy consumption, because the Department could not confirm the total quantity of brushes produced. (*See Supplier's Verification Report* at pages 1, 2 and 8.) In sum, HACO's supplier was not able to substantiate a single per-unit factor quantity that it provided to the Department in its questionnaire response. Therefore, we considered the verification of HACO's supplier to be a failed verification.

Comment #7: Verification Procedures

HACO claims that the verifiers were not familiar with the subject merchandise and had unreasonable expectations regarding records kept in the ordinary course of business at HACO. HACO further argues that the Department's conclusion of AFA is unreasonable in that it imposes a requirement that HACO maintain records, in this case financial statements, to satisfy the verification methodology.

The petitioner claims that this review was conducted in accordance with the Department's standard practice, and that when the verifiers encountered problems verifying factor data they gave HACO numerous opportunities to verify data by alternative means.

DOC Position: The Department conducted HACO's verification using standard verification procedures and following the agenda provided in advance in the verification outline. *See Supplier's Verification Report.* HACO has failed to identify any verification procedure the Department used that was flawed, out of the ordinary, or inconsistent with the verification outline. HACO has failed to identify in what way the Department failed to understand the subject merchandise, which is a common household item, and what impact this alleged

misunderstanding had on the verification.

HACO has failed to identify in what way the Department had unreasonable expectations concerning the records its supplier may have kept. The Department has never questioned the reasonableness of the records kept by HACO's supplier, but, rather, it has noted that those records either do not or cannot substantiate the information provided in the questionnaire response. (*See Supplier's Verification Report, Facts Available Memorandum*.)

As the Department has previously stated in this notice, there is no evidence on the record that suggests that the Department required HACO's supplier to maintain a detailed financial statement or to use that financial statement to trace factor inputs. Therefore, the Department maintains that HACO's supplier did not fail verification as a result of flawed verification procedures.

Comment #8: Verification of Total Production Quantities

HACO claims that the Department examined production records at verification and confirmed that the number of brushes produced was similar to the figure reported in the questionnaire response. HACO further argues that although it provided its entire 1997 production records at verification and even though the reported total quantity of production at HACO's supplier was verified in terms of total quantity of orders produced, the Department rejected this data because the factory was unable to provide a reflection of this production data in a financial statement. HACO contends that the Department's conclusion that HACO's supplier was unable to demonstrate the total quantity of sales in a financial statement is unreasonable because it required HACO's supplier to provide documentation not produced in the ordinary course of business.

HACO disagrees that its supplier's inventory records were ''not kept with sufficient accuracy to determine quantity sold since finished goods usually were not entered into inventory,'' because, it contends, the record shows that HACO's supplier produces to order. HACO points out that at HACO's supplier, the verifiers found no discrepancies between production orders and the quantities written on work orders, and claims that the production orders verified at HACO's supplier were consistent with the questionnaire responses.

HACO also claims that the Department could not identify production orders for the sales covered by this review and that it reviewed evidence at verification as to why this was not possible. HACO further contends that the production records that it presented to the Department for its demonstration of the per-unit calculation for labor represent the production records for the merchandise that was produced, since it is the only time in 1997 when both two- and four-inch brushes were produced.

Finally, HACO claims that the verifiers concluded that, since HACO's supplier did not have production records for the actual brushes that were shipped, the information provided at verification did not confirm the information reported in the questionnaire response. HACO claims that its supplier reported, and the Department verified, the total quantity of paintbrush production during the POR, including the records for October 1997, the only month when both two- and four-inch brushes, were produced.

The petitioner notes an apparent inconsistency in HACO's comments, calling into question HACO's claim that the factory produces only to order and does not sell from stock.

DOC Position: We disagree with HACO that the best measure of the total quantity of production at HACO's supplier is the total number of paintbrushes reflected in the completed production orders during the POR. Page 5 of the *Supplier's Verification Report* notes that HACO's supplier did not have production orders for all of its purchase orders, and that the production orders for the merchandise which was shipped to the United States were specifically missing. The *Supplier's Verification Report* delineates the Department's attempt to tie the total number of paintbrushes reflected in the completed production orders to some other independent record kept in the company, such as the total quantity of paintbrushes entered into finished goods inventory, shipped, or sold during the POR. As documented in the *Supplier's Verification Report*, HACO's supplier did not have adequate inventory records to show the quantity of brushes entered into finished goods inventory, or the quantity of brushes shipped during the POR. In addition, HACO's supplier did not have picking tickets, shipping vouchers, packing lists or truck manifests that could confirm the number of brushes shipped during the POR. *See Supplier's Verification Report* at pages 4 and 5. The report further details the Department's efforts to use the daily production reports to confirm the number of brushes completed during the POR, and to trace from the purchase order to the production order, and from the production order back to the purchase order. None of these records were kept in sufficient detail, accuracy or completeness to allow us to confirm the total number of paintbrushes produced. As a result, the Department concluded that it could not verify the total number of paintbrushes produced by HACO's supplier during the POR.

The Department did not require HACO's supplier to produce or to maintain any financial documents that it does not keep in the ordinary course of business. HACO's supplier placed a copy of its financial statements for both calendar year 1996 and calendar year 1997 in exhibit 4 of its July 20, 1998 supplemental questionnaire response. HACO's supplier presented original copies of these (unaudited) financial statements upon request at verification. Consequently, HACO's protests that the financial statements had been prepared only one time in its history contradict record evidence in this review.

Comment #9: Verification of Product Codes and Sizes

HACO disagrees that the verifiers were unable to verify product codes and sizes, and claims that although the brushes sold to the United States were distinguishable on the sales documentation between HACO and its supplier by both product code number and size, the verifiers erroneously confused the product codes that HACO used with its customer with the product codes used by its supplier. HACO further claims that because the brushes are sold not by code number, but by dimensions (*i.e.*, size), the confusion resulting from the verifiers' lack of familiarity with the product codes cannot be the basis for HACO's supplier failing verification.

DOC Position: We disagree that the product codes were a source of confusion resulting in the Department's inability to confirm which merchandise was actually shipped to the United States. All of the sales documentation presented at HACO confirmed the information reported in the questionnaire response concerning the product codes and the composition of the sales covered by this review. *See Supplier's Verification Report* at page 5. However, HACO's supplier, the manufacturer of the merchandise, claimed at verification that the merchandise shipped to the United States differed slightly from the merchandise that was reported in HACO's May 13, 1998 submission. HACO's supplier provided the codes of the brushes that were shipped and those that were originally ordered. Although

these were different, HACO's supplier claimed that the brushes were of similar product models and were somewhat interchangeable. (*See Supplier's Verification Report* at page 5.) We noted in our report that we could not substantiate the company's statement because no samples of the brushes shipped to the United States were on hand to compare to the samples given to the Department for the purpose of weighing. We noted that HACO's supplier had no existing product code list to which we could compare descriptions of the product codes noted on the invoices of the reported shipments with the product codes that HACO's supplier claimed it had sold to HACO. Finally, we note that HACO's explanation that the difference in product codes was due to the fact that HACO used different product codes with its customer and its supplier is not substantiated by record evidence. Therefore, for these final results of review, we maintain that the Department cannot ascertain the product codes and sizes of the merchandise that HACO shipped to the United States. (*See Proprietary Issues Memorandum* for additional discussion.)

Comment #10: Verification of Factor Input Values

HACO disagrees that the reported weights of brushes or individual component factors were unable to be confirmed at verification, claiming that, with the exception of some variance, the actual weights recorded at verification generally confirmed the submission data. HACO also disagrees with the verifiers' claim that problems in confirming these weights at verification were due to the absence of ongoing production, since the record shows production of brushes at the factory. HACO further argues that the record indicates verifiers did not ask to check this production. Had the verifiers checked the standard costs of brushes in assembly during verification, HACO claims, this would have corroborated the standard cost methodology.

DOC Position: There is no evidence on the record that HACO's supplier uses a standard cost system for paintbrushes produced in the factory. Rather, at HACO's supplier, ''a computer accounting program produces worksheets to show costs for each order,'' which indicates that HACO's supplier uses a job order cost accounting system rather than a standard cost system for its own purposes. *See Supplier's Verification Report* at 3.

HACO's supplier provided a cost sheet at verification (verification exhibit 23), but this was worked out specifically for the shipments covered by this review in preparation for the verification. This worksheet does not constitute a standard cost for this product, nor does it indicate that HACO's supplier has any other standard cost system in place.

The *Supplier's Verification Report* demonstrates that there is a substantial difference between the reported weight of each input and the weight found at verification. The verifiers could not confirm whether the single two-inch and four-inch brushes presented at verification were identical to the ones that were shipped. See *Supplier's Verification Report* at 5. As noted in the *Supplier's Verification Report* at page 7, because HACO's supplier provided only one sample each of a two-inch and four-inch brush, and two samples of each of the component parts found in a two-inch and four-inch brush, the Department was precluded from using a sound methodological approach in determining the actual weight of the factor inputs. Nevertheless, the Department weighed the brushes and components presented at verification and determined that they were not the brushes or component parts that were used to prepare the questionnaire response.

HACO's argument that the standard costs of brushes could be checked during the assembly and would have corroborated the standard cost methodology of HACO's supplier contradicts the record. As we noted above, there is no evidence on the record to suggest that HACO's supplier used a standard cost system to determine its cost of production. Furthermore, the evidence on the record indicates that the subject merchandise was not in production during the verification. Consequently, an examination of any records of the brushes in assembly during the verification would not substantiate the information presented in the questionnaire response.

Comment #11: Verification of Material Factor Input Values

HACO states that although the physical dimensions of the subject merchandise were shown on the invoices and purchase orders at issue, the verifiers did not measure the physical dimensions of any sample inputs that they weighed. Thus, HACO argues, the record does not indicate how great the differences were between reported and sample inputs. HACO further states that the weights of the sample inputs varied, and that the record does not indicate that the verifiers tested the accuracy of the scale.

HACO notes the following problems and discrepancies in the verification of each of the factor inputs below: (a) *Brushes:* HACO notes that the verifiers weighed two sample brushes, and the difference between reported and sample brush weights was negligible; HACO states that the reported weights were greater than the sample weights, indicating HACO did not underreport the weight of the brushes; (b) *Bristles:* HACO states that the verifiers weighed the bristles but did not measure the bristles for length, and states that the bristle weights varied each time they were weighed, calling into question the accuracy of the scale; (c) *Ferrule:* HACO states that the ferrule is the most important sample weight because HACO's supplier produced it, making it the only material factor over which it had control. HACO further states that the weights taken of the ferrule were consistent, and that the sample weights were less than the reported weights. HACO claims that ferrule weights suffered from the same errors as those for bristles, indicating that the scale was not precise; (d) *Handles:* HACO claims that the verifiers never measured the physical dimensions of the handles, and that the handle weights recorded at verification suffer from the same problems as the other inputs; (e) *Nails:* HACO submits that nails should be disregarded because the verifiers failed to measure them and failed to note that different brush sizes use different size nails. HACO further submits that the substantial differences between reported and sample weights render the weighed nails incomparable to those used on the subject merchandise; (f) *Epoxy:* HACO states that the verifiers did not attempt to weigh the per-unit amount of epoxy consumed, and that the amount of epoxy used on a brush would be difficult to determine by weighing. HACO notes that the purchase and consumption records of epoxy were available to the verifiers; (g) *Weighing:* HACO claims that discrepancies in the weights indicate a flawed verification methodology. HACO disagrees with the statement in the *Supplier's Verification Report* that the scale was accurate to a gram, stating that the scale was calibrated in grams, but not accurate or tested to determine accuracy. HACO claims that factory officials offered to provide a more accurate scale but the verifiers did not accept the offer. HACO also submits that variations between sample and reported weights were small and that weights varied depending on

an item's location on the scale. HACO further states that the Department's worksheet from the actual weighing was omitted from the record without explanation.

The petitioner comments that any deficiencies in either the paintbrush samples or the scale provided by HACO to weigh inputs at verification were within HACO's power to control. The petitioner states that the Department was precluded from using a sound methodological approach because it was unable to verify HACO's factors of production data, citing 19 U.S.C. § 1677m(i) (section 782(i) of the Act) where the statute precludes the Department from using data that cannot be verified, and *Extruded Rubber Thread From Malaysia, Final Results of Antidumping Administrative Review* 63 FR 33588, 33589 (June 20, 1997) (*Rubber Thread*) where the Department stated that '' using [erroneous and unverified] information would require the Department to use information that it knows is incorrect, unverified, or both.'' Thus, the petitioner concludes, the record demonstrates that the Department conducted verification in accordance with standard procedures and treated HACO fairly.

DOC Position: HACO's claim that the Department did not measure the actual physical dimensions of the brushes presented at verification is true but irrelevant to the success of the verification, since the factor values for all components of the paintbrushes were reported in kilograms. If, for example, the brushes had identical dimensions, but different weights, based on the use of harder or softer wood in the handle, HACO's supplier would still fail the verification. HACO was free to ask the Department to measure the physical dimension of the brushes at verification, if it thought such a measurement might be relevant, but it did not do so.

The Department used HACO's supplier's scale at the verification. It was a balance type of scale, used for objects which weigh less than one kilogram and accurate to the nearest tenth of a gram. The Department had no reason to question the accuracy of the scale and no ability to calibrate it if its measurements were inaccurate. Furthermore, there is no evidence on the record to support HACO's claim that its supplier offered to provide a more accurate scale during the verification.

With respect to the problems and discrepancies outlined above, we note the following: (a) *Brushes:* HACO failed to demonstrate that the brushes presented at verification were the same product model as the brushes that were shipped to the United States. In addition, since the weight of these brushes differed significantly from the weight reported in the questionnaire response, HACO failed to demonstrate that the brushes presented at verification were the same ones that were used to prepare the questionnaire response. If there were only one sample brush of the merchandise shipped to the United States, it should weigh just as much at verification as it did when the response was prepared. Contrary to HACO's claims, the percentage difference in the weights reported in the questionnaire response and found at verification are significant and call into question the integrity of the entire questionnaire response, regardless of whether the weights measured at verification were higher or lower than the ones reported in the questionnaire response; (b) *Bristles:* The Department did not measure the length of the bristles presented to the verifiers during verification since bristle length was not reported to the Department prior to verification, or relevant to verify the bristle weight reported. All factors of production, including the material factors for brush bristles, were reported in kilograms in the questionnaire response. Therefore, the Department did not have any reason to measure bristle length at verification. The Department weighed the sample bristles provided by HACO's supplier at verification. If these were the incorrect type of bristles, they were nevertheless presented to the Department as the same bristles that were used to make the merchandise shipped to the United States and for preparation of the questionnaire response. There is no evidence on the record to suggest that the bristles were weighed more than one time. Finally, the difference between the figures found at verification and those reported in the questionnaire response was significant and further called into question the integrity of the questionnaire response; (c) *Ferrule:* Since ferrules are made by cutting long strips of metal into ten or more shorter widths by manually pushing the strips through a guillotine-like press, they are subject to large variations in size and weight from one piece to another. Consequently, it was up to HACO's supplier to have sufficient ferrules on hand to determine an average weight, or to otherwise demonstrate that the figures reported in the questionnaire response were accurate. At verification, we found a significant difference between the figures reported in the response and the weights of the ferrules measured at verification. This difference calls into question the integrity of the preparation of the questionnaire response, so that it is immaterial whether the weight reported in the questionnaire response is higher or lower than the weight found at verification; (d) *Handles:* Whether the Department measured the physical dimensions of the handles is irrelevant to this case. At verification, the Department examined HACO's inventory room and found a wide variation in the type of wood that is used in producing paintbrushes. Two brushes with the same dimensions could have significantly different weights, depending on whether one used a heavy-weight or light-weight wood. HACO failed to present the Department with the production orders for the merchandise under review, or to otherwise provide the technical specifications of the merchandise that was shipped to the United States. Consequently, we cannot know whether the handles presented to us at verification were the same as the ones that were shipped to the United States or which were used to prepare the questionnaire response; (e) *Nails:* We disagree that we failed to measure the nails and failed to note that different brushes use different size nails. We made separate measurement of the nails used to produce two-inch and four-inch brushes. The results are recorded in the *Supplier's Verification Report.* The difference between the reported figures and the figures found at verification is so great as to call into question whether the correct nails were measured. However, since we have no production orders telling the factory exactly which materials to use in the production of the merchandise that was shipped to the United States, we cannot further ascertain which nails should have been measured. Consequently, we weighed the nails that were presented to us at verification as representing those that were used in the production of the subject merchandise. That these weights could be so significantly different from what was reported further casts doubt on the methods that were used to prepare the questionnaire response; (f) *Epoxy:* Epoxy cannot be segregated from the brush to which it adheres for weighing purposes. Thus, the only way to verify per-unit epoxy consumption is to verify total epoxy consumed per brush type, and divide that figure by the total quantity of brushes of that type produced. HACO's supplier did not have the appropriate data available with which to support the per-unit figure reported in the questionnaire response. The Department was unable to verify the total number of brushes produced by the factory, and HACO's supplier did

not have a further breakdown of its brush production by size or product model. Therefore, even if we had reasonable figures for HACO's supplier's total factory-wide epoxy glue consumption, we would have no denominator with which to calculate a per-brush consumption rate. However, HACO's supplier did not report its total factory-wide epoxy glue consumption prior to verification and there is no evidence to suggest that such figures were presented at verification; (g) *Weighing:* HACO's supplier provided the scale that was used to weigh the paintbrushes and components at verification, and neither HACO officials nor officials from its supplier raised any concerns about the scale. HACO's claim, in its case brief, that the verifiers were offered ''a more accurate'' scale is not supported on the record.

For the foregoing reasons, we agree with the petitioner that the information presented at verification could not be verified and that it is the Department's practice not to use information that it knows is incorrect, unverified, or both (See *Rubber Thread*). Consequently, we have not used HACO's information in calculating a dumping margin in this review.

Comment #12: The Use of ''Caps'' as the Basis of Labor Factor Reporting

HACO states that labor figures provided in its August 27, 1998 submission are based on what it refers to as ''caps'' because they apparently represent a sufficiently accurate standard cost for HACO's supplier's accounting and production purposes. HACO notes that its supplier's workers are paid on a piece-work basis, not an hourly basis. HACO disagrees that its supplier could not show how it had obtained the reported figures, because, HACO claims, its supplier reported total labor used for total number of brushes in calendar year 1997, and provided that information at verification. HACO disagrees that the figures presented at verification were far less than reported figures, and claims that data presented at verification was just over the cap estimate. HACO further argues that brushes are produced in cumulative stages and that the verifiers failed to add the provided labor inputs data for each stage of the production process.

DOC Position: We disagree that what HACO refers to as ''caps'' constitute a sufficiently accurate basis to confirm the labor factor values reported in this review. HACO explained in its submission of August 27, 1998, that caps were ''estimates.'' No further explanation of how caps were determined was provided during the course of this review. At verification, HACO's supplier was not able to confirm any of the reported values for labor inputs.

HACO's counsel attempted to duplicate the reported figures using HACO's supplier's daily production log for each step in the production process. However, since no production records were available for the month in which production actually occurred, HACO's supplier selected October 1997, the only month for which HACO's supplier had labor records for two- and four-inch brush production, and demonstrated how such per-unit labor input figures could, in theory, be derived. As page 7 of the *Supplier's Verification Report* noted, the resulting figures differed significantly from those reported in the questionnaire response. In addition, the figures were not taken from the month in which production of the subject merchandise occurred, as evidenced by verification exhibit 25 and discussed in the *Proprietary Issues Memorandum*. As the report also noted, the Department tested the reasonableness of the labor rate provided at verification and found that it was not consistent with the labor rate required to produce the total number of paintbrushes that HACO's supplier claimed that it produced in its June 2, 1998 response.

The Department disagrees that what HACO's supplier refers to as ''caps'' constitute standard costs. Neither HACO's questionnaire responses information presented at verification made any reference to a standard cost system. HACO explained, in its verification response and at verification, that its supplier pays its workers on a piece-work basis, and all records presented to the Department were based on the actual number of pieces produced during a given shift. Hence, by definition, actual and not standard costs were used to prepare the questionnaire response. Furthermore, contrary to HACO's claims, the Department evaluated at great length and in great detail all of the labor data presented for each step in the production process. Since the figures presented at verification did not match the information provided in HACO's questionnaire responses, the labor factor value was not verified.

Finally, HACO's proposal that the Department test the labor time required to produce brushes in production at the time of verification would not satisfy the Department's need to verify the questionnaire response since none of the sizes of the merchandise sold to the United States during the POR were under production at the time of the verification.

Comment #13: The Department's Acceptance of Caps

HACO claims that the verifiers' unfamiliarity with the use of ''caps'' as a standard cost for labor should not serve as a basis for failure of verification, and that the Department has accepted caps in the past, citing *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews* 63 FR 16758 16761 (April 6, 1998), where, HACO argues, the Department recognized that discrepancies between reported and actual figures are acceptable as long as the verified weights are reasonable.

DOC Position: We disagree that ''caps'' have been regularly accepted in the past. HACO provided only one case as a reference. In this one case, the Department found discrepancies between the reported and actual figures. The Department, in that one case, found the actual figures to be acceptable and reasonable. In the current case, the Department found discrepancies between the reported figures and the figures presented at verification. The Department examined the information, considered its reasonableness, and concluded that it varied so greatly from the information presented in the questionnaire response that it could not infer or deduce how the information presented in the questionnaire response was derived. Consequently, the Department did not consider the information presented in the questionnaire response as verified. (*See Supplier's Verification Report* at pages 7 and 8.)

Comment #14: Verification of Energy Values

HACO disagrees that the Department could not verify the energy figure provided by HACO's supplier, claiming that the electricity rate was reasonable and verified because the Department verified the total amount of brushes produced in calendar year 1997 and verified the amount of electricity used during that time, allowing a per unit calculation. HACO notes that the verifiers understood the brush operation to be the only process involving use of electricity other than factory overhead.

DOC Position: We disagree that HACO's energy rate was verified. We examined all of HACO's supplier's electricity bills for the POR and were able to confirm the total consumption for the POR. *See Supplier's Verification Report* at 8. However, the determination of the per-unit rate of electricity consumption requires an accurate

determination of the number of brushes produced during the POR. The Department was unable to confirm the number of brushes produced during the POR; consequently, it could not confirm the accuracy of the reported per-unit electricity consumption figures. Therefore, this item was not verified. For further explanation, *see Supplier's Verification Report* at page 8 and *Facts Available Memorandum*.

Comment #15: Disregarding HACO's U.S. Sales as Non-Bona Fide

The petitioner raised an alternative argument in the event that the Department were to reconsider its use of AFA and use HACO's data to calculate HACO's margin for this review, that the Department should disregard any U.S. sales that are not the result of bona fide arm's-length transactions, as it did in *Certain Cut-To-Length Carbon Steel Plate from Romania: Notice of Rescission of Antidumping Duty Administrative Review*, 63 FR 47232 (September 4, 1998) (*Romanian Plate*). The petitioner asserts that evidence on the record of this review is substantially similar to that in *Romanian Plate*, which demonstrated that the sales were not commercially reasonable, and therefore not bona fide. As a result, the petitioner argues, the sales of the subject merchandise cannot be used to calculate a new cash deposit rate for HACO, and should therefore lead the Department to rescind this administrative review.

HACO claims that the basis for determining that the transaction was not *bona fide* in *Romanian Plate* was that the subject merchandise was resold at a substantial loss, making the sale commercially unreasonable, and that the exporter and importer were affiliated parties. In the instant review, HACO contends, there is no evidence to show that sales were atypical or not commercially reasonable. On the contrary, HACO claims, the sales were made at arm's-length, and that the record in this review clearly demonstrates the transaction at issue was *bona fide*.

DOC Position: We continue to find that the use of AFA is appropriate for these final results of review. Therefore, the Department did not find it necessary to consider petitioner's alternative argument to disregard HACO's U.S. sales for the purpose of this review.

Final Results of Review

As a result of our review, we determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Hebei Animal By-Products I/E Corp.	02/01/97–01/31/98	351.92

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of this notice of final results of administrative review for all shipments of paintbrushes from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For HACO, which has a separate rate, the cash deposit rate will be 351.92 percent; (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; (3) for all other PRC exporters, the rate will be the PRC country-wide rate, which is 351.92 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 rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.401(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

This administrative review and notice are published in accordance with Sections 751(a)(1) and 777(i)(1) of the Act and Sections 351.213 and 351.221 of the Department's Regulations.

Dated: May 11, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–12785 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 99–006. *Applicant:* Harvard University, 12 Oxford Street, Cambridge, MA 02138. *Instrument:* Electron Microscope, Model JEM–2010F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to study mesoscale structure and chemical composition of novel materials such as semi-conducting nanowires, carbon nanotubes and nanometallic catalyst and polymers. The objectives of the investigations are to increase the

understanding of mesoscale materials in several areas: their growth mechanism, chemical composition, phases and crystal structure, morphology and the quantum size effect. *Application accepted by Commissioner of Customs:* April 15, 1999.

Docket Number: 99–007. *Applicant:* Baylor College of Medicine, One Baylor Plaza, Houston, TX 77030. *Instrument:* Electron Microscope and Accessories, Model JEM–3000F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for studies of proteins, viruses, protein-nucleic acid complexes and membrane receptors, which are involved in a variety of biological processes in viral morphogenesis, signal transduction, ion and molecular transport and catalysis. The experiments will include direct imaging with the specimen embedded in vitreous ice and kept at liquid helium temperature (4K) during microscopic observations. The objectives of the investigations are to record a sufficiently large number of images of the ice-embedded biological particles in different orientations. *Application accepted by Commissioner of Customs:* April 27, 1999.

Docket Number: 99–008. *Applicant:* University of California, San Diego, Cognitive Science Department, 9500 Gilman Drive 0515, La Jolla, CA 92093–0515. *Instrument:* Operant Testing System. *Manufacturer:* CeNeS Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of the neural basis of attention in rodents using previously developed research paradigms. The experiments will involve performance-based measures of attentional function, a five-choice serial reaction time task, and a spatial orienting task. *Application accepted by Commissioner of Customs:* April 29, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–12789 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Louisiana State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 99–003. *Applicant:* Louisiana State University, Baton Rouge, LA 70803. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 64 FR 16913, April 7, 1999. *Order Date:* January 12, 1999.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–12788 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Maryland, Baltimore; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following dockets.

Docket Number: 98–050. *Applicant:* University of Maryland, Baltimore, Baltimore, MD 21201. *Instrument:* Visual Stimulator Model Leonardo. *Manufacturer:* Lohmann Research Equipment, Germany. *Date of Denial Without Prejudice to Resubmission:* February 16, 1999.

Docket Number: 98–052. *Applicant:* University of Maryland, Baltimore, Baltimore, MD 21201. *Instrument:* Patch Clamp System. *Manufacturer:* Luigs and Neumann, Germany. *Date of Denial Without Prejudice to Resubmission:* February 16, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–12786 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Chicago; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 98–054. *Applicant:* University of Illinois at Chicago, Chicago, IL 60607–7059. *Instrument:* Two-Zone Mercury Overpressure Annealing System. *Manufacturer:* Cifer SRL, Italy. *Date of Denial Without Prejudice to Resubmission:* March 1, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–12787 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The APAC will have a closed meeting on May 20, 1999 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, D.C. 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Pub. L. 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on May 11, 1999, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the February 25 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

This notice is being submitted later than two weeks prior to the meeting due to the late confirmation of the meeting date. APAC members' attendance and the availability of government officials to brief the Committee during the meeting needed to be considered.

Dated: May 17, 1999.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 99–12784 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904, NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On April 12, 1999, CEMEX, S.A. de C.V. (''CEMEX'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the 7th Administrative review made by the International Trade Administration, respecting Gray Portland Cement and Clinker From Mexico. A second request was received on April 12, 1999 from Cementos de Chihuahua, S.A. de C.V. (''CDC''). The determination was published in the **Federal Register** (64 FR 13148) on March 17, 1999. The NAFTA Secretariat has assigned Case Number USA–MEX–99–1904–03 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, Acting United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on April 12, 1999, requesting panel review of the 7th administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 12, 1999);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is May 27, 1999); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: May 21, 1999.

Caratina L. Alston,

Acting United States Secretary, NAFTA Secretariat.

[FR Doc. 99–12685 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–GT–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051799A]

Tuna Dealer Reports

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

ACTION: Proposed Collection; comment request.

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 July 19, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; (301) 713–2347.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). The National Marine Fisheries Service (NMFS) collects information via dealer reports to monitor the U.S. catch of tuna in relation to the quota, thereby ensuring that the United States complies with its international obligations to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Provisions of the domestic regulations are also monitored through this collection of information, such as compliance with area closures, fishing seasons, and subquotas by gear type and/or user group. This information provides the catch data necessary to assess the status of tuna resources. Assessments are conducted and presented to ICCAT annually. The data provide, in part, the basis for ICCAT management recommendations which become binding on member nations. In addition, dealer reports provide essential information for domestic management policy and rule making. This collection also includes imports of Pacific bluefin tuna.

II. Method of Collection

Dealers who buy, sell, or receive for commercial purposes any large medium or giant size class Atlantic bluefin tuna are required to report all transactions to NMFS via daily and biweekly reporting forms. These forms collect certain information for each Atlantic bluefin tuna that is sold at landing. Dealers who purchase any other types or sizes of Atlantic tuna, or Pacific coast dealers who export or import bluefin tuna, are required to submit biweekly reports only. Dealers must affix a tag to the tail of each bluefin tuna, record these tag numbers on biweekly reports, and add the tag numbers to the label of any packages of tuna parts to be transported for domestic use or export. Anglers who catch giant or medium-sized Atlantic bluefin tuna must also submit daily reports.

III. Data

OMB Number: 0648–0239

Form Number: None

Type of Review: Regular submission for extension of a currently approved collection

Affected public: Business or other for-profit (tuna dealers), individuals

Estimated Number of Respondents: 432

Estimated Time Per Response: 3 minutes for daily reports, 14 minutes for biweekly Atlantic bluefin tuna report, 24 minutes for the Pacific biweekly report, 14 minutes for the biweekly report on other Atlantic tunas, and 10 minutes for tagging and recording the tag numbers of bluefin tuna.

Estimated Total Annual Burden Hours: 1,039 hours

Estimated Total Annual Cost to Public: $0 (no 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 also will become a matter of public record.

Dated: May 13, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 99–12765 Filed 5–19–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

[Intent To Renew Information Collection No. 3038–0033]

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0033, Regulation Governing Notification of Legal Proceedings, which is due to expire September 30, 1999. The information collected pursuant to this rule is designed to assist the Commission in monitoring legal proceedings involving the responsibilities imposed on contract markets and their officials and futures commission merchants and their principals by the Commodity Exchange Act, the Commission's enabling legislation, or otherwise. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of the information of 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 electronics submission of responses.

Dates: Comments must be received on or before July 19, 1999.

Addresses: Persons wishing to comment on this information collection should contact the CFTC Clearance Office, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

Title: Regulation Governing Notification of Legal Proceedings.

Control Number: 3038–0033.

Action: Extension.

Respondents: Contract Markets and their officials and Futures Commission Merchants and their principals.

Estimated Annual Burden: 10 hours.

Respondents	Regulation (17 CFR)	Estimated number of respondents	Annual responses	Est. avg. hours per response
Contract markets and their officials and futures commission merchants and their principals	1.60	100	1	.10

Issued in Washington, DC May 12, 1999.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 99–12686 Filed 5–19–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Wednesday, May 26, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12863 Filed 5–18–99; 1:07 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 4, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12864 Filed 5–18–99; 1:07 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, June 7, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12865 Filed 5–28–99; 1:07 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 11, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12866 Filed 5–18–99; 1:22 pm]

BILLING CODE 6712–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 14, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12867 Filed 5–18–99; 1:22 pm]

BILLING CODE 6712–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, June 18, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12868 Filed 5–18–99; 1:22 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, June 21, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12869 Filed 5–8–99; 1:22 p.m.]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m. Friday, June 25, 1999.

PLACE: 1155 21st St., NW., Washington, D.C., 9th Floor Conference.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12870 Filed 5–18–99; 1:22 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, June 28, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–12871 Filed 5–18–99; 1:22 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board

AGENCY: National Assessment Governing Board; Department of Education.

ACTION: Notice of request for comments.

SUMMARY: The National Assessment Governing Board requests public comment on two draft documents it has prepared for submission to Congress and the President. The first document, required under section 305(c)(1) of the FY 1999 Omnibus Budget Act (the Act), provides a suggested statement of the purpose, intended use, definition of the term ''voluntary,'' and the means of reporting results for the proposed voluntary national tests in 4th grade reading and 8th grade mathematics. The second document, entitled ''National Assessment of Educational Progress: Design 2000–2010,'' describes how improvements in the National Assessment of Educational Progress will be implemented during the 2000–2010 period. Interested individuals and organizations are invited to provide written comments to the Governing Board.

Written Comments: Written comments must be received by June 9, 1999 at the following address: Mark D. Musick, Chairman (Attention: Ray Fields), National Assessment Governing Board, 800 North Capitol Street NW, Suite 825, Washington, DC 20002–4233.

Written comments also may be submitted electronically by sending electronic mail (e-mail) to Ray__Fields@ED.GOV by June 9, 1999. Comments sent by e-mail must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Inclusion in the public record cannot be guaranteed for written statements, whether sent by mail or electronically, received after June 9, 1999.

Public Record: A record of comments received in response to this notice will be available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays, in Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002.

The Voluntary National Test: Purpose, Intended Use, Definition of Voluntary and Reporting

Background

Purpose

The purpose of this report is to fulfill one of the requirements of the FY 1999 appropriation act for the Department of Education (the Act). Specifically, with respect to the proposed voluntary national tests in 4th grade reading and 8th grade mathematics, the Act requires the National Assessment Governing Board to

> * * * determine and clearly articulate the purpose and intended use of any proposed federally sponsored national test. Such report shall also include—(A) a definition of the meaning of the term ''voluntary'' in regards to the administration of any national test; and (B) a description of the achievement levels and reporting methods to be used in grading any national test.

This report addresses the four required areas: purpose, intended use, definition of ''voluntary,'' and reporting. Although the legislation states that the Governing Board shall ''determine'' these matters, the Governing Board recognizes that this report is advisory to Congress and the President. Any final determination on these matters will be made in legislation enacted by Congress and signed by the President.

The Act contains other provisions related to the voluntary national test. One provision amends the General Education Provisions Act, creating a new section 447, prohibiting pilot testing and field testing of any federally sponsored national test unless specifically authorized in enacted legislation. However, another provision permits the development of voluntary national tests, giving the National Assessment Governing Board exclusive authority for such test development.

In order to carry out the congressional assignment to prepare this report, the Governing Board had to envision a situation in which there was authority to conduct voluntary national tests, while recognizing that the Act prohibits such tests at this time. Further, the Governing Board had to envision how national testing could work, given that schools in the United States are governed by states, localities and non-public authorities. The Governing Board attempted to answer the question: If there are to be voluntary national tests, what is a feasible, coherent plan that would be beneficial to parents, students, and teachers? Thus, while not advocating for or against the voluntary national test initiative, the Governing Board interprets the congressional assignment to be to present a sound and logical case for the potential purpose and use of the voluntary national tests.

The Act sets September 30, 1999 as the deadline for submitting this report to Congress and the President. However, to assist Congress and the President in deliberating on the future of the voluntary national test, help promote a timely decision, and avoid a full year's delay in pilot testing should Congress and the President decide to proceed with the project, the Governing Board is submitting its report in June.

Report Preparation Process

In November 1998, the Governing Board established a special ad hoc committee to assist in drafting the report. The committee was composed of both veteran and new Board members. Chaired by Michael Nettles, the committee included Wilmer Cody, Thomas Fisher, Michael Guerra, Nancy Kopp, Debra Paulson, Diane Ravitch, and John Stevens.

The committee developed a plan for preparing the report, engaging the Governing Board in related policy deliberations, and obtaining public comment. At the March 1999 Board meeting, the committee presented materials that were developed for public comment. These included an explanatory statement; two possible scenarios addressing purpose, use, definition of voluntary, and the methods for reporting; and a set of questions related to the scenarios. The purpose of these materials was to provide a framework for public comment. They did not represent the positions of the Governing Board at the time.

The Governing Board discussed these materials at length, made several changes, and authorized the committee to proceed to obtain public comment. The materials and an invitation to provide written comments and/or oral testimony at four public hearings during March and April were disseminated.

Taking the comments received into account, the committee then prepared a draft report for review at the May 1999 Governing Board meeting. The Governing Board discussed and revised the draft report and authorized the committee to obtain comment on the draft report. The draft report was disseminated by mail, on the Governing Board's web site, and in the **Federal Register.** A hearing on the draft report will be conducted June 12 at the annual Large Scale Assessment Conference with state and district testing experts.

After taking the comments received into account, the committee will prepare a draft report for presentation to the Board at a special meeting on June 23. At the June 23 meeting, the Governing Board will discuss the draft and approve a final version for submission to the President and Congress.

Overview

This report is in three sections. The first section is in the form of a story. It is intended to put a ''human face'' on the details in the section that follows. The second section describes the Governing Board's recommendations on purpose, intended use, definition of ''voluntary,'' and reporting for the proposed voluntary national tests. The third section is a summary with recommendations.

The Voluntary National Test: A Story

It is March 18; the year is 2006. Fourth grader Maria Johnson, along with her classmates and many other 4th graders across the nation, will be taking the voluntary national test in reading tomorrow. Eighth graders will be taking the mathematics test.

Maria started kindergarten in September 2001; the first voluntary national test was administered the following March. That year and each year since, Parade magazine devoted an early April article to the test. The test questions were published, along with the answers. For questions that require students to write their own answers, samples of student work from the national tryout of the test the year before were included to illustrate different levels of student performance. These levels of student performance are based on the achievement levels set for the National Assessment of Educational Progress (NAEP). Similar materials were made available following each year's tests in newspapers, magazines aimed at parents and teachers, on the Internet, and on the Public Broadcasting System. Reading and mathematics achievement levels posters are displayed in pediatrician's offices across the country. January through March of each year, McDonald's, Burger King, Wendy's, and KFC print sample test questions on placemats and food containers.

Maria's school district decided to volunteer to participate in the national test in 4th grade reading. The school district administration had examined the test framework, specifications, and sample test and determined that they were consistent with the district's reading program. They knew that the results would belong to the district and the families. The federal government would not report or maintain any of the data resulting from testing nor require the district to report any of the data to the federal government.

Maria's school provided copies of the Parade article to each of the families. In the school district, the policy is for all students to participate in testing unless a parent specifically objects. When Maria's parents finished reading the article, they had a clear picture of what a proficient reader in the fourth grade should know and be able to do. They understood that proficiency would not come overnight, but with many small steps and that each year of school would mark progress toward the goal of reading proficiency. Maria's parents decided that having a clear goal and following progress toward that goal are good things to do and wanted their child to participate.

Having this initial knowledge, the Johnsons wanted to learn more and did their homework. They attended a school-sponsored seminar on the reading program. They learned what they could do at home to reinforce what Maria was learning in school. The Johnsons obtained a special version of the NAEP framework, written for parents, to deepen their understanding of the material covered by the test. The Johnsons now had a frame of reference for talking with Maria's teachers in specific terms about the reading program and for monitoring Maria's progress each year toward 4th grade reading proficiency. Maria, with her parents' encouragement and teachers' support, has worked hard in school and at home on her reading assignments and enjoys reading on her own.

With this shared understanding and common language about reading proficiency, the school was helped in its efforts to involve parents. The school had developed its own testing program to track the reading progress of each student each year toward 4th grade reading proficiency. Thus, needs for extra help were identified early, in-depth diagnosis was provided when needed, and remediation occurred before it was too late.

The school liked using the achievement levels. They were consistent with the state's performance standards for reading. They helped keep the school staff focused as they worked day-by-day, making hundreds of decisions about materials, instruction, and curricula to achieve the many incremental steps needed for each student to progress.

Parents and teachers also like the fact that the test booklet is returned. This permits parents and teachers to review with the student all of the test questions and the student's answers. The student gets reinforcement on what was done well. Parents and teachers can see which questions were answered well and which were missed, probe the reasons why with the student, and, from the student's response and other knowledge of the student, explore whether advanced activities, diagnostic testing, or any other intervention should be considered.

Together with the on-going assessment program and the state's standards and assessments, the school and parents found that the voluntary national test adds in a unique way to the range of methods for monitoring individual student progress. The teachers and principals found that the achievement levels used to report voluntary national test results were much easier for parents to understand than percentiles, stanines, or mean scores. Also, the voluntary national test provides parents and schools a single basis of comparison for individual student performance across states that is generally not available from classroom developed tests or state-wide

assessments. Most of all, parents have a clear and very specific understanding of how their child has performed in comparison to rigorous standards.

Although the test was designed to provide individual results, the school district has decided that it will compile the individual student results that were provided by the voluntary national testing program. The district administrators want to know how the district overall compares with the students in the national sample who participated in the national trial run of the test the year before.

The district has joined a consortium of similar districts that have agreed among themselves to follow the guidelines for compiling and reporting voluntary national test data developed by the National Assessment Governing Board (NAGB). Following these guidelines ensures that the data analyses are done properly, comparisons between and among districts and schools are fair, and inferences about achievement are defensible. When the district reports these results to the public, it makes a big point of saying that it has followed these guidelines to the letter and spirit, as a means for establishing credibility and trust.

The story presents one plausible scenario for how the voluntary national test might be implemented in public schools, but other scenarios are possible as well. The story is focused on the future because effects of the proposed voluntary national test would not be fully achieved in its first year. But two things are clear. If there is to be such a test, it should be made available to all who would find value in it, whether state, public school, private school, home school, or individual parent. And, while the federal government would provide resources to make the tests available, there should be no federal coercion, sanctions, or rewards for participating.

The story emphasizes that, while having widely recognized standards and assessments can provide focus for planning and a common language for students, parents and teachers, what is most important is what parents, students, and educators actually do with that knowledge. The story, implicitly, also suggests that a wide voluntary mobilization of private resources in society reinforcing the value and importance of learning (e.g., Parade and McDonald's) would be important.

The Purpose of the Voluntary National Test

As the Governing Board worked on this report, it became evidence that purpose, intended use, the definition of voluntary, and means for reporting are, to a large degree, interdependent. A change in any one of these could affect the others. Therefore, it is important that these four areas be coherent.

In addition, the test should serve a unique purpose. If the same purpose is already being fulfilled by another testing program, there is no need for the voluntary national test. If the same purpose could easily be fulfilled by another testing program, it would be prudent to consider that possibility in weighing the pros and cons before proceeding with full implementation.

The National Assessment Governing Board suggests that Congress and the President consider the following as the purpose of the proposed voluntary national test:

> To measure individual student achievement in 4th grade reading and 8th grade mathematics, based on the content and rigorous performance standards of the National Assessment of Educational Progress (NAEP), as set by the National Assessment Governing Board (NAGB).

Rationale

The legislation giving responsibility for voluntary national test development to the Governing Board does not specify or limit the subjects and grades to be tested. However, the accompanying conference report does direct that the tests be based on NAEP content and NAEP performance standards and be linked to NAEP to the maximum extent possible. The Governing Board in August 1996 adopted a policy on NAEP redesign. The redesign policy provides for testing at grades 4, 8, and 12 at the national level is 11 subjects and, based on the needs and interests expressed by states, at grades 4 and 8 at the state level in reading, writing, mathematics and science.

Grades 4, 8, and 12 are transition points in American schooling. Consistent with the National Assessment redesign policy and the congressional directive that the voluntary national tests be designed to parallel NAEP, the Governing Board limited the test development contract to cover grade 4 reading and grade 8 mathematics. Proficiency in these subjects, by these grades, is considered to be fundamental to academic success.

Most importantly, measuring individual student achievement based on the National Assessment affords this proposed testing program a unique niche among K–12 academic testing programs in the United States. For 30 years, the National Assessment has reported the status and progress of student achievement on nationally representative samples of students. It has done so with credibility, technical competence, and widespread acceptance. For the last ten years, the National Assessment also has reported on state-representative samples of students in volunteering states, providing participating states with the only available comparable measure of student achievement.

However, the National Assessment, by law, does not provide individual student results. It provides only group-level results (e.g., for students overall, by sex, by race, by type of school, etc.). The NAEP state-level assessments represented a watershed event. Ten years ago, state-level assessments were begun with fears of encroachment on state and local autonomy and worry that a national curriculum would result. The promise that the NAEP state-level assessment program would serve a unique function—to provide comparable state results, trends over time, and an external validity check for state standards and assessments—has been realized. The fears have not. This is because there are checks and balances built into the governance of the program.

Today, similar fears of federal encroachment and the emergence of a national curriculum are being expressed about the voluntary national test and must be addressed. As with the NAEP state assessments, checks and balances can be provided for in the governance and operation of the voluntary national testing program to prevent these reasonable concerns about federal encroachment and national curricula from becoming reality.

Definition of the Term 'Voluntary'

There are two dimensions to the definition of the term ''voluntary'' as it would apply in the administration of the voluntary national tests. The first dimension has to do with the role of the federal government. The second dimension has to do with who makes the decision to participate in the voluntary national tests.

Federal Role

The role of the federal government in the proposed voluntary national tests should be limited. The federal government should not make any individual take the voluntary national tests or require any school to administer the tests. The federal government should have no control or authority over nay data resulting from the administration of the voluntary national tests, nor should participation in the voluntary national tests be a condition for receiving federal funds.

The National Assessment Governing Board suggests that Congress and the President consider the following as part of the definition for the term ''voluntary'':

The federal government shall not require participation by any state, school district, public or private school, organization, or individual in voluntary national tests, make participation in voluntary national tests a specified condition for receiving federal funds, or require participants to report voluntary national test results to the federal government.

Rationale

It is fundamental that the definition of the term ''voluntary'' include limits on the role of the federal government. The limits on the federal role should be specified in legislation and designed to insure against any encroachment on state, local, and private school autonomy. Several witnesses in the Governing Board's public hearings argued that the 55 mile-per-hour speed limit was voluntary, too, but became universally implemented by states (and in that sense was ''mandatory'') because it was a specified condition required to receive federal highway funding. The definition of ''voluntary'' provided here would foreclose such an outcome. However, it would not foreclose any federal grantee from using the voluntary national test to meet a general reporting requirement if other options are available as well and could be fulfilled validly and appropriately by the voluntary national tests. On the one hand, it is not fair to require that the VNT be used. On the other hand, it is not fair to foreclose its use if doing so is done without coercion and solely at the participant's discretion.

Who Decides To Participate

Since the federal government will not coerce participation, it will be up to others to decide whether to participate. Education governance for public schools in the United States, about 88 percent of K–12 school enrollment, is vested in state and local public authorities. Responsibility for the remaining 12 percent of K–12 school enrollment resides with private school authorities and parents.

The definition of ''voluntary'' needs to accommodate a wide range and diversity of governance authority. For example, there is great variation among state laws in the degree of central authority and responsibility for education and the degree of local district autonomy. Similarly, there are differences among private schools in how they are governed as well as among state laws regarding the oversight of private schools and home schooling. While provisions for who decides to participate should accommodate this range and diversity of authority, such accommodation must be made in a manner that does not conflict with state and local law and policy.

With respect to who decides to participate in voluntary national tests, the National Assessment Governing Board suggests that Congress and the President consider the following:

Public and private school authorities should be afforded the option to participate in the voluntary national tests. For public schools, state and/or local law and policy should determine whether the initial decision to participate is made at the state level or at the local district level. Where state law or policy provides that the initial decision be made at the state level, and the state decides not to participate, school districts should be afforded the opportunity to decide whether to participate, to the extent permitted by state and local law and policy.

For private schools, the decision to participate should be made by the appropriate governing authority.

Parents may have their children excused from testing as determined by state and local law and policy in the case of public schools. In the case of private schools, parents may have their children excused from testing as determined by the policy of the appropriate governing authority.

Parents whose schools are not participating but want their children to take the voluntary national tests should have access to the tests either through a qualified individual or testing organization before the tests are released to the public or through dissemination procedures at no or minimal cost (e.g., public libraries and the Internet) after the tests are released to the public.

Rationale

The definition of ''voluntary'' adopted by the Governing Board is intended to align with state and local law and policy regarding the authority to make decisions about testing. The definition is designed to allow for choice in providing the opportunity to participate, but without exceeding the authority of the federal government in this sensitive area, without coercion by the federal government, and without intruding on the prerogatives of states, school districts, private schools, and parents.

Typically, if not universally, determinations about testing are made by school authorities, whether state, local, or private (including home schools). They determine what should be tested, what grades should be tested, the time of year for testing, the content of reports on test results and the use of the results. These authorities decide whether tests will be taken by all students or by a sample of students. Therefore, the definition of ''voluntary'' is designed to account for the fact that schools are the most likely venue through which the proposed voluntary national tests would be administered and that school authorities decide which tests will be given. At the same time, the definition of ''voluntary'' recognizes and accommodates the variation in responsibility and authority for education governance that exists across state boundaries among states and schools.

School authorities also decide the extent to which official policies will provide for parental intervention to have their children excused from testing. The definition of ''voluntary'' intends to accommodate this variability as well, again, without intruding on local prerogatives.

Finally, the definition of ''voluntary'' recognizes that there could be instances in which school authorities decide not to participate in the voluntary national tests, but certain parents want their children tested. In such cases, parents may elect to have their children tested by appropriately licensed or recognized individuals or organizations. Because all parents who may wish to have their children take the test may not have the resources to pay for private testing, the test and scoring guides could be made available for free, or at a minimal charge, after the period for conducting the testing is completed.

Intended Use of the Voluntary National Tests

The intended use of the voluntary national tests is related to the statement of purpose and definition of ''voluntary'' suggested above. The Governing Board suggests that Congress and the President consider the following as the intended use of the proposed voluntary national tests:

To provide information to parents, students, and authorized educators about the achievement of the individual student in relation to the content and the rigorous performance standards for the National Assessment, as set by the National Assessment Governing Board for 4th grade reading and 8th grade mathematics.

Rationale

The proposed intended use of the voluntary national tests is purposely narrow, and appropriately so. Consistent with the purpose statement, which is *to measure individual student achievement*, the intended use is *to provide information describing the achievement of the individual student.* Upon receiving the results of the test, parents, students and teachers will have an overall measure of the individual student's achievement in 4th grade reading or 8th grade mathematics. As

described in the following section on reporting, they will have information on the performance standard reached by the student and other detailed related information.

With information in hand from the voluntary national tests and other sources about the child and the school program, it is expected that: (1) parents could become more involved with the child's education, (2) students could study hard and learn more, (3) teachers could work more to emphasize important skills and knowledge in the subjects tested without narrowing or limiting their curricula, and (4) parents, students, and teachers could have a means for better communication about the child's achievement.

While such outcomes can be hoped for, their achievement relies on local effort, resources, skill, and persistence. A test and clear performance standards are necessary, but not sufficient conditions for their achievement. No testing program can determine, ensure, or constrain what will be done with the information it provides. However, when the values of a society at large are focused on a clear goal widely recognized as important, with consistent methods for monitoring progress toward that goal, the likelihood that local effort, resources, skill and persistence will voluntarily be brought to bear on the achievement of that goal is increased.

The Governing Board does not assume that uses of data from voluntary national tests beyond the intended use described above are necessarily inappropriate or should be prohibited to states, districts, and private schools. Any such additional use of voluntary national test data would be done at the discretion of the participating state, district, or private school authorities, who would be responsible for following appropriate technical standards and validation procedures.

However, the voluntary national test are not tied to a preferred curriculum, teaching method or approach. The voluntary national tests are based on the content of the National Assessment of Education Progress. The content of each NAEP test is developed by the Governing Board through a National consensus process involving hundreds of educators, curriculum specialists, school administrators, parents, and members of the public. The content of NAEP is designed to assess what students know and can do, not how they are taught.

The voluntary national tests also are not designed to diagnose specific learning problems or English language proficiency. Tests for such diagnostic purposes are specifically tailored. For example, a test of English language proficiency may involve speaking and listening as well as reading. A test to diagnose specific learning problems may include motor coordination and perception, but may or may not include mathematics skills. Tests for the general population, such as the voluntary national tests, are inappropriate for these diagnostic purposes.

The voluntary national tests are not intended to be used as the sole criterion in making ''high stakes'' decisions (e.g., placement or promotion) about individual students. As the National Academy of Sciences/National Research Council (NAS/NRC) stated in its report ''High Stakes: Testing for Tracking, Promotion, and Graduation'':

> Scores from large-scale assessments should never be the only sources of information used to make a promotion or retention decision * * * Test scores should always be used in combination with other sources of information about student achievement * * * Students who fail should have the opportunity to retake any test used in making promotion decisions; this implies that tests used in making promotion decisions should have alternate forms. (p. 12–11).

The NAS/NRC report also recommends against the use of the voluntary national test in any high stakes decision for individual students under any circumstances, whether in association with other sources of information or not. This recommendation is in contrast to the Governing Board's suggestion above that any use of the voluntary national test beyond the stated intended use must follow technical standards and be validated by the participating state, district, or private school authorities. The Governing Board recommends that such uses and their validation be left to the professional discretion of participating states, districts and schools.

Reporting the Results of the Voluntary National Tests

Consistent with the purpose and intended use of the voluntary national tests, the National Assessment Governing Board suggests that results of the voluntary national tests be provided separately for each student. Parents, students, and authorized educators (those with direct responsibility for the education of the student) should receive the test results report for the student. Test results for the student should be reported according to the performance standards for the National Assessment of Educational Progress (NAEP). These are the NAEP achievement levels: Basic, Proficient, and Advanced.[1] All test questions, student answers, and an answer key should be returned with the test results; it will be clear which questions were answered correctly and which were not. The achievement levels should be explained and illustrated in light of the questions on the test. Also, based on the nationally representative sample of students who participated in the national tryout of the test the year before, the percent of students nationally at each achievement level should be provided with the report.

There should be no compilations of student results provided automatically by the program. The program should not provide results for the nation as a whole or by state, district, school, or classroom, since the purpose and use of the testing program are directed at individual student level results.

However, it is virtually certain that compilations of student results will be desired and demanded by at least some of the state and district participants and possibly by private school participants as well. These participants should be permitted to obtain and compile the data at their own cost, but they will bear the full responsibility for using the data in appropriate ways and for validating the uses they make of the data.

The Governing Board would develop and provide guidelines and criteria for use by states, districts, and schools for compiling and reporting the data from the voluntary national tests. The guidelines and criteria would explicitly require full and clear disclosure about exclusions and/or absences from testing, so that results and comparisons would be accurately portrayed. Access to the test data by external researchers would be made strictly at the discretion of the participating state, district, or private school, as it would with any other testing program, without prejudice because of federal support for the voluntary national test program.

Other Issues

There are several issues which the Governing Board would be remiss not to raise, although they are outside the requirements for this report set by Congress and no attempt is made to resolve them here.

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[1] N.B. In making the determination that the achievement levels will be the basis for reporting voluntary national test results, the Governing Board is aware that Congress has asked for its response to the assertion that the process for setting the levels is ''flawed.'' The Governing Board is submitting simultaneously, under separate cover, a report describing its response to this assertion and its plan for investigating alternative standard-setting methods.

Implementation

By law, the Governing Board has exclusive authority for test development. The Governing Board has been meticulous in staying within the law's boundaries. The Governing Board has focused its efforts on developing test questions and on associated activities. Appropriately, the Governing Board has not taken up implementation issues such as

- The process by which states, districts and schools commit to participate, to what entity the commitment is made, and in what form and of what nature the commitment should be
- How information about the test program and the opportunity to participate will be made available to parents, teachers, and students
- Whether and how quality control monitoring of testing should occur
- How printing of test booklets, scoring of student responses, and reporting of test results would be handled
- Whether the testing program should be controlled by a federal agency or private commercial interests
- Whether all or part of the costs for the test program should be paid by the federal government

Linking the Voluntary National Tests to NAEP

Underlying the concept of the proposed Voluntary National Tests is the desire to measure and report student achievement based on the content and rigorous performance standards of NAEP. Indeed, the directive from Congress to the Governing Board is to link the VNT to NAEP ''to the maximum extent possible.'' Accomplishing this linkage presents a significant challenge—one which affects the design of the VNT as well as the manner in which data are calculated and reported. Two tests can be linked to the degree that they have common characteristics, including types of questions, range of content, test administration procedures, etc. Thus, the first task facing the Governing Board is to forge a close relationship between the two tests as the VNT is being created.

Linking two tests also depends upon the particular statistical approach that can be used. Unless a strong statistical procedure can be used legitimately, the VNT results cannot be reported directly on NAEP scales. This would necessarily mean that the VNT may have to be reported without direct reference to NAEP.

Solutions to the challenge of linking will evolve as (and if) work on the VNT continues. The Governing Board intends to develop options to create a good linkage between the VNT and NAEP. If the linkage cannot be established, alternative reporting strategies for the VNT will be prepared. These alternatives would, of course, be based on NAEP content and performance standards to the maximum extent possible.

These questions of implementation and linking do not need to be settled immediately. They will, however, need to be considered and must be settled in a timely manner if Congress and the President decide that the voluntary national test program should go forward.

Summary

This report presents the Governing Board's response to the congressional assignment to determine the purpose and intended use of the proposed voluntary national tests, including the definition of the term ''voluntary'' and a description of the achievement levels and other means for reporting results. The Governing Board has prepared this report over an eight month period that included extensive deliberation, expert advice, four regional public hearings and two successive periods of public comment (the first to develop the draft report, the second to review the draft report).

Although the legislation requiring the report calls for a ''determination,'' the Governing Board views this report as advisory. Any final determination on these matters would be made in legislation enacted by Congress and signed by the President.

In submitting this report, the Governing Board is neither advocating for or against a voluntary national test. Rather, the Governing Board interprets and assignment from Congress to be a present a sound and logical case about the potential purpose and use of the voluntary national tests.

Recommendation

The Governing Board is submitting this report in June, three months before the required due date of September 30, 1999. This is to assist the Congress and the President in deliberations toward a timely decision on the future of the voluntary national tests.

The Governing Board recommends that a decision be made before September 30. The schedule for the voluntary national test, if the decision is made to proceed, calls for a pilot test in March 2000 of test questions developed by the Governing Board. In order for the pilot test to be properly carried out in March 2000, a decision is needed before September 30, 1999. This will permit the test development contractor to proceed in an orderly and efficient manner to carry out activities that are essential to the pilot test, such as determining the sample of participating schools and arranging for the printing of booklets of test questions.

A decision to proceed that comes too late will set the schedule for the pilot test back one year, to March 2001. This is because pilot testing must occur in the same month that testing is to occur, which is March. If authorization to proceed does not come before September 30, it may not be possible to carry out all of the necessary steps that lead up to the pilot test in time for it to occur in March 2000.

If, on the other hand, the decision is made not to proceed, a decision prior to September 30 will allow for an orderly and cost-effective termination of the test development contract.

It is important to note the purpose of pilot testing. The purpose of pilot testing is to determine the quality of each individual test question. There are no individual student scores reported. In pilot testing, individual questions are evaluated singly. There are no overall test scores calculated, even though a student in the pilot test will respond to many test questions. The only data collected are statistics that relate to the specific test question, such as the percent of students who answered the question correctly. From the analysis of student responses on the individual test questions, three decisions are possible: drop the test question, keep the test question as is, or keep the test question with changes. Only from the set of test questions that remain after pilot testing will test booklets be constructed, which then will be tried out in field-testing. The *field test* stage, unlike the pilot test, is designed to simulate the plans for actual testing. If the decision is made to proceed, a field test would be conducted in March 2001.

The optimal outcome would be to have a timely final decision on whether or not there shall be voluntary national tests. Another possible outcome would be to have agreement to proceed with the pilot test of questions, while continuing to deliberate on the prospects for the voluntary national test program itself. If the pilot test proceeds, the test questions could be considered for use in the National Assessment of Educational Progress, should the ultimate outcome be the continuing prohibition of voluntary national tests.

National Assessment of Educational Progress: Design 2000–2010

What should the Nation's Report Card on student achievement look like during the next decade? How can it most effectively help the public understand the academic readiness of our youth at grades 4, 8, and 12—key transition points in American education? Ultimately, how can the National Assessment of Educational Progress (NAEP) best be used as an indicator of national and state educational preparedness for the challenges facing our society?

The purpose of this report to Congress and the President is to describe the recommendations of the National Assessment Governing Board for answering these questions. The report will provide a summary of the Governing Board's policy to redesign the National Assessment, describe the status of implementation of the redesign policy, and address the implications for reauthorization of the National Assessment of Educational Progress.

Background

In 1996, prompted by increasing demand for more and more frequent information about the status and progress of student achievement in the United States, the National Assessment Governing Board, an independent, bipartisan citizen's group created by Congress to set policy for the National Assessment, charted a course for NAEP through the year 2010. The policy to redesign the National Assessment followed two years of study, expert advice, deliberation by the Governing Board, and public comment.

In 1997, the National Center for Education Statistics (NCES) developed a plan to implement the redesign policy. The plan has two phases. The first phase covers assessments in the year 1999–2003. In 1998, NCES awarded new contracts for NAEP covering this period. During this first phase, the Governing Board's annual schedule of assessments will be carried out (see Table 1), National Assessment student achievement data will be released more quickly, National Assessment reports will be redesigned for the general public, and research will be conducted to foster a streamlined design for the National Assessment. The second phase of National Assessment redesign, covering assessments for the years 2004–2007, will continue the earlier improvements and begin to implement the innovations aimed at streamlining the design of NAEP.

Even as redesign implementation begins under the new contracts, the Governing Board continues to weigh new evidence that may bear on the shape of the NAEP redesign policy. For example, following the adoption of the redesign policy in 1996, there have been evaluation reports issued on the National Assessment, reviews by other experts, and papers prepared for the November 1998 Ten-Year Anniversary Conference sponsored by the Governing Board. The views expressed raise issues or concerns that bear on six areas of the redesign policy. The Governing Board decided to examine once again these six areas of the redesign policy to determine whether any modifications to the policy are in order. These six policy areas were reviewed in detail in a forum conducted by the Governing Board on April 15 with technical experts, consumers of NAEP data, representatives from the National Center for Education Statistics and the NAEP contractors. The results of the April 15 forum are incorporated in this report.

National Assessment Redesign: A Summary and Status Report

Introduction: The Redesign Principles

Over its thirty-year history, the National Assessment has earned respect and credibility. The National Assessment is widely recognized for the comprehensiveness of its tests, the quality of its technical design, the accuracy of its reports, and innovation in its execution. The data produced by the National Assessment are unique. No other program provides regular reports on the status and progress of student achievement for our nation as a whole and that are comparable state-by-state.

Although its original purpose was to measure and report on the status of student achievement and on change over time, recognition of the quality and integrity of the National Assessment led to a multitude of demands and expectations beyond reporting on achievement. Meeting those expectations was done with good intentions and seemed right for the situation at the time. However, some additions that the National Assessment performs less effectively were ''tacked on'' to the original design.

The National Assessment was being asked to do too many things, some even beyond its reach to do well, and was attempting to serve too many audiences. For example, in contrast to the 1970's in which a single 120 page report on mathematics was deemed sufficient, the 1992 NAEP mathematics reports numbered seven and totaled about 1,800 pages.

The result of attempting to respond to demands beyond NAEP's central purpose was to overburden NAEP's design, drive up costs and reduce the number of subjects that could be tested. For example, the National Assessment tested two or three subjects each year during the 1970's, its first decade, but only every other year after the 1980's. Another indicator that NAEP had too many distractions was that results could be released as many as two to three years after testing. This simply was not acceptable, particularly with the advent of state-level assessments in the 1990's.

The Governing Board's solution was to focus NAEP on what it does best: measure and report on the status of student achievement and change over time. Focusing NAEP on what it does best would permit NAEP's design to be simplified and also would mean putting limits on demands that are outside NAEP's central purpose. Another part of focusing NAEP is to define the audience for reports. The Governing Board has determined that the NAEP program should not attempt to serve multiple audiences directly. The audience for reports should be the general public.

Specialized needs for NAEP data should be accommodated by making the NAEP data easily accessible for analysis by others—educators, researchers, policymakers, and the media, among others. In order to make data more understandable and useful to the general public, the Governing Board has determined that achievement levels, or performance standards, should be the primary means for reporting NAEP results.

Thus, five principles undergird the Governing Board's policy for the redesign of the National Assessment:

- Conduct assessments annually, following a dependable schedule
- Focus NAEP on what it does best
- Define the audience for NAEP reports
- Report results using performance standards
- Simplify NAEP's technical design

Details on these and other aspects of the redesign policy follow.

Annual Schedule

A centerpiece of the National Assessment redesign in a dependable annual schedule of assessments through the year 2010 (Table 1). In the past decade, the focus on education reform, new and revised state assessments, and the national education goals have led to demand for National Assessment testing more frequently than the biennial schedule of the 1980's and most of the 1990's. The schedule for the period 1996 through 2010 was adopted in March 1997 and revised in November 1998. It provides for annual assessments

at the national level and state-level assessments in even-numbered years. The long-term trend assessments in reading, writing, mathematics, and science continue on a once per four-year cycle beginning in 1999.

At the national level, grades assessed will be 4, 8 and 12. Subjects covered will be reading, writing, mathematics, science, geography, U.S. history, world history, civics, economics, foreign language, and the arts. These are the subjects listed in the current national education goals. Reading, writing, mathematics and science will be assessed once every four years. Other subjects will be assessed less frequently, but there will generally be two assessments in a subject over a ten-year period.

Testing at the state level will occur in even-numbered years, with reading and writing in grades 4 and 8 alternating with mathematics and science in grades 4 and 8. Student achievement results in these subjects and grades at the state level will be reported on a once per four-year basis.

Many of the other redesign policies, described below, are aimed at making the annual schedule affordable through cost-saving efficiencies.

TABLE 1.—SCHEDULE FOR THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

[The following schedule was adopted by the National Assessment Governing Board on March 8, 1997 and revised in November 1998. Assessments shown as scheduled for 1996, 1997, and 1998 were approved previously by the Board.]

Year	National	State
1996	Mathematics	Mathematics (4, 8).
	Science	Science (8).
	Long-term trend* (reading, writing, mathematics, science)	
1997	Arts (8).	
1998	Reading	Reading (4, 8).
	Writing	Writing (8).
	Civics..	
1999	Long-term trend*.	
2000	Mathematics	Mathematics (4, 8).
	Science	Science (4, 8).
	Reading (4).	
2001	U.S. History.	
	Geography.	
2002	Reading	Reading (4, 8).
	Writing	Writing (4, 8).
2003	Civics.	
	FOREIGN LANGUAGE (12).	
	Long-term trend*.	
2004	**MATHEMATICS**	**MATHEMATICS** (4, 8).
	Science	Science (4, 8).
2005	**WORLD HISTORY** (12).	
	ECONOMICS (12).	
2006	**READING**	**READING** (4, 8).
	Writing	Writing (4, 8).
2007	**ARTS.**	
	Long-term trend*.	
2008	Mathematics	Mathematics (4, 8).
	SCIENCE	**SCIENCE** (4, 8).
2009	**U.S. HISTORY.**	
	GEOGRAPHY.	
2010	Reading	Reading (4, 8).
	WRITING	**WRITING** (4, 8).

Note: Grades 4, 8, and 12 will be tested unless otherwise indicated. Comprehensive assessments are indicated **BOLD ALL CAPS;** standard assessments are indicated in upper and lower case.

*Long-term trend assessments are conducted in reading, writing, mathematics and science. These assessments provide trend data as far back as 1970 and use tests developed by the National Assessment at that time.

Status of Implementation

The work in the new NAEP contracts covers the schedule as adopted by the Governing Board for the years 1999–2003. The long-term trend assessments in reading, writing, mathematics, and science will be conducted in 1999 and 2003. In 2000, mathematics and science assessments will be conducted in grades 4 and 8 at the state level and at grades 4, 8, and 12 at the national level. In addition, a reading assessment at grade 4 at the national level will be conducted. In 2001, geography and U.S. history assessments will be conducted at grades 4, 8, and 12 at the national level. In 2002, reading and writing assessments will be conducted at the state level in grades 4 and 8 and at the national level in grades 4, 8, and 12. In 2003, assessments will be conducted at the national level in civics in grades 4, 8, and 12 and in foreign language at grade 12.

Define the Audience for NAEP Reports

The expanded demands and expectations noted above reflected the many varied audiences that NAEP was attempting to serve. Trying to serve too many audiences has meant that no audience is optimally served by the National Assessment. The NAEP redesign policy makes the distinction between the *audience* for reports prepared by the NAEP program and the *users* of NAEP data. The audience for NAEP reports is the American public. The primary users of NAEP data are national and state policymakers, educators, and researchers.

This distinction in the policy between the audience for reports and users of data is important. It is intended to address the needs of various groups and

individuals interested in NAEP results, while providing an appropriate division of labor between them and the federal government.

National Assessment reports released by the U.S. Department of Education should be objective, providing the facts about the status and progress of student achievement. Providing objective information about student achievement is an appropriate federal role. Since the public is the primary audience, NAEP reports should be understandable, jargon free, easy to use, widely disseminated, and timely.

On the other hand, the redesign policy suggests that interpreting NAEP data (e.g., developing hypotheses about achievement from relationships between test scores and background questions) is a role that falls primarily to those outside the Department of Education—the states that participate in NAEP, policymakers, curriculum specialists, researchers, and the media, to name a few. For the NAEP program itself to address the myriad of interests and questions of these diverse groups seems both impractical and inappropriate. However, the federal government should encourage and provide funds for a wide range of individuals and organizations with varied interests and perspectives to analyze NAEP data and use the results to improve education. This is the point of the redesign policy. Thus, the redesign policy provides that National Assessment data are to be made available in easily accessible forms to support the efforts of states and others to analyze the data, interpret results to the public, and improve education performance.

Status of Implementation

The National Center for Education Statistics is placing a high priority on ''highlight'' reports and national report cards for each subject, which are aimed at the general public. NAEP data will be accessible through a new Internet web site, customized for particular data users. Priorities for NAEP secondary analysis grants were revised to encourage wider use of NAEP data by national and state policy makers, educators, and researchers and to focus the analyses on interpretive and education improvement purposes. Also, NCES is continuing to develop and provide training on software for analyzing NAEP data.

Report Results Using Performance Standards

In 1988, Congress created the Governing Board and authorized it to set performance standards—called achievement levels—for reporting National Assessment results. Under the redesign policy, achievement levels are to be used as the primary (although not exclusive) means for reporting National Assessment results. The achievement levels describe ''how good is good enough'' on the various tests that make up the National Assessment. Previously, the National Assessment reported average scores on a 500-point scale. There was no way of knowing whether a particular score represented strong or weak performance and whether the amount of change from previous years' assessments should give cause for concern or celebration. The National Assessment now also reports the percentage of students who are performing at or above ''Basic,'' ''Proficient,'' and ''Advanced'' levels of achievement.

The achievement levels have been the subject of several independent evaluations, some controversy, and conflicting recommendations. Recommendations have been carefully considered and some have been used to improve the standard-setting procedures. While the current procedures are among the most comprehensive used in education, the Governing Board remains committed to making continual improvements.

Status of implementation

The Governing board will continue to set achievement levels for reporting NAEP results. These achievement levels are to be used on a developmental basis until a determination is made that the levels are reasonable, valid, and informative to the public. At that point, the developmental designation will be removed.

The Governing Board views standard setting as a judgmental, not a scientific, process. However, the process must be conducted in a manner that is technically sound and defensible. The Governing Board is preparing a report required by Congress to respond to the assertion that the process for setting the achievement levels is ''flawed.'' This report will include a detailed plan for reviewing the criticisms and compliments found in the evaluation reports that studied the achievement levels. The plan also will address alternatives to the current level-setting procedures.

Simplify the Technical Design for the National Assessment

The current design of the National Assessment is very complex. The redesign policy requires that the research and testing companies that compete for the contract to conduct the National Assessment must identify options to simplify the design of the National Assessment. Examples of NAEP's complexity include: (1) National and state results are based on completely separate samples. (2) No student takes the complete set of test questions in a subject and as many as twenty-six different test booklets are used within a grade; thus scores on NAEP are calculated using very sophisticated statistical procedures. (3) Students, teachers, and principals complete separate background questionnaires, which may be submitted at different times, complicating their use in calculating assessment results. (4) The data for every background question collected must be compiled before any report can be produced, regardless of whether the data from the background question will be included in a report, lengthening the time from data collection to reporting.

Status of Implementation

This is a ''work in progress.'' Options for combining the national and state samples are being developed by the contractors in collaboration with NCES and the Governing Board. Similarly, options to reduce the size of the state sample are being considered. An option to increase the precision of the state results will be implemented in the year 2000 mathematics and science state assessments. Progress also has been made in shortening the time between data collection and reporting by eliminating the requirement to link certain background questionnaires to student achievement data. Plans for a short-form of the National Assessment, using a single test booklet, are being implemented, with a pilot possibly as early as the year 2000. The purpose of the short-form trial is to enable faster initial reporting of results and, possibly, for states to have access to NAEP assessment results in years in which NAEP assessments are not scheduled in particular subjects. Plans also are in the development stage for improving the quality, relevance, and efficiency of background questionnaires.

Measure Student Achievement at Grades 4, 8, and 12

The primary purpose of the National Assessment is to measure student achievement at grades 4, 8, and 12 in academic subjects at the state and national level and for subgroups, showing trends over time in the percent of students at or above each achievement level. The subjects to assess are those listed in the national educational goals—reading, writing, mathematics, science,U.S. history, geography, world history, civics,

economics, the arts, and foreign language. Grades 4, 8 and 12 are considered to be important transition points in American education. Reporting by grade is generally thought to be relevant for policy than the reporting by age which was used at NAEP's inception and in long-term trend reporting.

Although grade 12 performance is important as an ''exit'' measure from the K–12 system, here are problems with grade 12 results. The problems are that student and school participation rates and student motivation at grade 12 are now. The Governing Board has considered whether the change NAEP to another grade at the high school level, examining both anecdotal and empirical evidence. Anecdotal evidence about the low motivation of high school students taking low stakes tests in the spring of their senior year raises serious questions about whether NAEP should test a grade 12. However, the empirical evidence in NAEP does not indicate that switching to grade 11 would result in higher motivation on the part of students or greater accuracy in the results. In fact, there is some evidence that twelfth graders taking NAEP may try harder in some cases than eleventh graders. The redesign policy asks the companies that compete for the NAEP contract to find ways to increase school and student participation rates and student motivation. Until they increase, National Assessment reports should include clear caveats about interpreting grade 12 results.

Status of Implementation

Because the empirical evidence does not warrant a change at this time, NAEP should continue to test at grade 12. New NAEP contracts have been awarded for the conduct of assessments through the year 2003. The contracts are designed to measure student achievement at grades 4, 8, and 12; report state, national, and subgroup results; report trends over time; and use performance standards for reporting results. Caveats for interpreting grade 12 results have been added to reports. However, more attention needs to be placed on improving grade 12 participation rates and student motivation. Toward this end, NCES is planning a series of studies, including NAEP transcript studies, to examine the relationship between student achievement and motivation.

What NAEP Is Not Designed To Do

The NAEP redesign policy attempts to focus NAEP on what it does best. What the National Assessment does best is measure student achievement. Focusing NAEP on what it does best comes with a related idea—recognizing and limiting what NAEP is not designed to do.

Although the National Assessment is well designed for measuring student achievement and trends over time, it is not a good source of data for drawing conclusions about or providing explanations for the level of performance that is reported. It also is not a measure of personal values, a national curriculum, an appropriate means for improving instruction in individual classrooms, or a basis for evaluating specific pedagogical approaches.

The National Assessment is what is known as a ''cross-secondary survey,'' an effective and cost-efficient means for gathering data on student achievement. A cross-sectional survey gathers data at one point in time. In the case of NAEP, data are gathered on national and state-representative samples of students at a particular time during the school year. The sample is large enough to permit reasonably accurate estimates of subgroup performance (e.g., by sex, race, and ethnicity). Change over time can be measured by administering the same survey again in later years, under the same testing conditions, with samples of students that are similar to the ones tested earlier. Comparisons can be made within and cross the subgroups and for the whole sample.

However, a cross-sectional survey cannot provide answers about what causes the level of performance that is reported. Measuring the causes of achievement would involve an experimental design, with specific research questions to answer, pre- and post-testing of students, and comparisons of results between groups of students receiving a particular educational approach with those that are not. While some may view such research as a worthwhile part of NAEP, the need for pre- and post-testing alone would double the costs of NAEP testing. Because pre- and post-testing would require additional administrative burden on schools and more time away from instruction for students, it could severely hamper school and student participation rates in NAEP, especially with NAEP's annual assessment schedule. Too few schools and students in the sample, in turn, would jeopardize NAEP's ability to provide national and state-representative student achievement results.

The best that can be done regarding explanation or interpretation of results is to report on background variables that may be associated with achievement. However, in many cases, the data from background questions collected by NAEP are inconclusive or counter to what one would expect. Even where the associations are stronger, the data are not adequate for supporting conclusions that explain why achievement is at the level reported. Clearly, the use of NAEP background data to explain or interpret achievement results should be done with caution.

Status of Implementation

Under the new NAEP contracts, the collection of background information will be more focused. The plan is to collect a well-defined core of background information. For example, the well-defined core of background information will include the data that are required for every assessment—e.g., data on sex, race, ethnicity, whether the students are in public or private schools, etc. In addition, each assessment will have a set of background questions designed specifically for the subject being assessed, with each set being determined by policy. Therefore, the background questions for the mathematics assessment will vary from those for the science or reading assessments.

The intent is not only to be more purposeful about what is collected, but more strategic about how it is collected as well. For example, in the past, information on TV watching by students was collected regularly as a part of every assessment. In the same year, the same background questions could be asked of the students in each separate national sample. Clearly, whether two or more subjects are being assessed in a particular year, it may not be necessary to ask identical questions across all of the assessments. Similarly, it may not be necessary to ask certain questions every year. In addition, the background questions themselves will be pilot tested to reduce the possibility of misinterpretation.

Reporting NAEP Results

The redesign policy provides the National Assessment results should be released with the goal of reporting results six to nine months after testing. Reports should be written for the American public as the primary audience and should be understandable, free of jargon, easy to use and widely disseminated. National Assessment reports should be high technical quality, with no erosion of reliability, validity, or accuracy.

The amount of detail in reporting should be varied. *Comprehensive reports* would be prepared to provide an in-depth look at a subject the first time it is assessed using a newly adopted test

framework, testing many students and collecting background information. Although scale scores also will be used, achievement levels shall continue to be the primary method for reporting NAEP results. Test questions, scoring guides, and samples of students work that illustrate the achievement levels—Basic, Proficient, and Advanced—will receive prominence in reports. Data also would be reported by sex, race/ethnicity, socio-economic status, and for public and private schools; other reporting categories also are possible. *Standard reports* would be more modest, providing overall results in the same subject in subsequent years using achievement levels and average scores. Data could be reported by sex, race/ethnicity, socio-economic status, and for public and private schools, but would not be broken down further. The amount of background data collected and reported would be somewhat limited in comparison to a comprehensive report. *Special, focused assessments* on timely topics also would be conducted, exploring a particular question or issue and possibly limited to one or two grades.

Status of Implementation

The new NAEP contracts provide for faster release of data, standards-based reporting, reports that are targeted to the general public, and three different kinds of reports: ''comprehensive,'' ''standard,'' and ''focused.'' The 1998 national reading results were released in 11 months of testing; the state results in 12 months. Although still short of the Board's goal of reporting results in 6 to 9 months following testing, progress is being made.

Simplify Trend Reporting

The NAEP redesign policy requires the development of a carefully planned transition to enable ''the main National Assessment'' to become the primary way to measure trends in reading, writing, mathematics and science. This is because there are now two NAEP testing programs for reading, writing, mathematics and science. The two programs use different tests, draw different samples of students (i.e., one based on age—9, 13 and 17-year-olds, the other based on grade—4, 8 and 12), and report results in two different ways. Not surprisingly, the two different programs can yield different results, which complicates the presentation and explanation of NAEP results. In addition, this redundancy boosts costs, potentially limiting assessments in other subjects.

The first program, referred to as the ''long-term trend assessments,'' monitors change in student performance using tests developed during the 1960's and 1970's. The sample of students is based on age (i.e., 9, 13, and 17-year-olds) for reading, mathematics, and science and on grade for writing (i.e., grades 4, 8 and 11). The age-based samples include students from two or more grades. For example, the 9-year-old sample has 3rd, 4th, and 5th grade students. Long-term trend assessment results are reported displaying changes over time in average scores. The second program, referred to as ''main NAEP,'' uses tests developed more recently, reports results by grade, and employs performance standards for reporting whether achievement is good enough. As an example of the potential for confusion in maintaining two separate programs, in 1996 the long-term trend assessment program declared mathematics results flat since 1990, while main NAEP reported significant gains.

Some argue against the policy to make main NAEP the primary means for monitoring trends. They feel that being able to compare student achievement in the 1990's to achievement in the 1970's and 1980's is too important to eliminate. Others argue that the long-term trend assessments are not relevant for policy makers. This is because these assessments primarily use a sample based on the students' age rather than on the students' grade, the content of the tests is simpler, there is no standards-based reporting, and the results at times conflict with main NAEP.

Status of Implementation

This is a ''work in progress.'' The National Center for Education statistics is just beginning to develop options for making the transition from long-term trend to main NAEP as the primary means for monitoring trends in achievement. Identifying options that are practical, affordable, and technically feasible will take time. The Governing Board has scheduled long-term trend assessments to be conducted in 1999, 2003, and 2007. This will afford adequate time to evaluate the viability of the options that may be proposed and at the same time maintain the long-term trend line. The immediate effect is to change the schedule for this part of the testing program from once every two years to once every four years.

Keep NAEP Assessment Frameworks Stable

The NAEP redesign policy states that assessment frameworks shall remain stable for at least ten years. The purpose is three-fold: to provide for measuring trends in student achievement, to allow for change to frameworks when the case for change is compelling, and to manage costs.

By law, National Assessment frameworks are developed by the Governing Board through a national consensus process involving hundreds of teachers, curriculum experts, state and local testing specialists, administrators, and members of the public. The assessment frameworks describe how an assessment will be constructed, provide for the subject area content to be covered, determine what will be reported, and influence the cost of an assessment.

Both current practice and important developments in each subject area are considered: How much algebra should be in the 8th grade mathematics assessment? Should there be both multiple choice and constructed response items and if so,what is the appropriate mix? How much of what is measured should students know and be able to do? The frameworks receive wide public review before adoption by the Governing Board.

Status of Implementation

The Governing Board is solely responsible for developing and approving assessment frameworks and has been adhering to its policy of keeping the frameworks stable. With a decision to be made this year about whether to conduct a national consensus process for the 2004 mathematics assessment, the Governing Board is beginning to examine criteria for determining when a new framework is necessary. An important factor will be the impact of changing the framework on the measurement of trends in student achievement.

Use International Comparisons

The NAEP redesign policy states that National Assessment frameworks, test specifications, achievement levels, and data interpretations shall take into account, where feasible, curricula, standards, and student performance in other nations, band promote studies to ''link'' the National Assessment with international assessments.

The National Assessment is, and should be, an assessment of student achievement in the United States. It should be focused on subjects and content deemed important for the U.S. through the national consensus process used to develop NAEP frameworks. However, decisions on content, achievement levels, and interpretation of NAEP results, where feasible, should be informed, in part, by the expectations for education set by other industrialized

countries, and comparative test results. Although there are technical hurdles to overcome, consideration of such information can be useful in determining ''how good is good enough'' in an assessment for U.S. students.

Status of Implementation

The National Center for Education Statistics conducted a linking study of the 1996 NAEP science and mathematics assessments with the 1995 Third International Mathematics and Science Study (TIMSS). The Government Board used information from this linking study in setting the achievement levels for the 1996 science assessment. NCES will be conducting TIMSS again in the spring of 1999 and thirteen states have agreed to participate to collect state-presentative TIMSS data. NCES will be applying a methodology for relating TIMSS to NAEP and will be evaluating the strength of the relationship.

Use Innovations in Measurement and Reporting

The NAEP redesign policy states that the National Assessment shall assess, and, where warranted, implement advances related to technology and the measurement and reporting of student achievement. In addition, the competition for NAEP contracts for assessments beginning around the year 2000 shall include a plan for conducting testing by computer in at least one subject and grade and for using technology to improve test administration, measurement, and reporting.

Status of Implementation

The newly awarded NAEP contracts include plans for a short-form test (described above) in 4th grade mathematics in the year 2000 and for the development of a computer-based assessment.

Help States and Others Link To NAEP and Use NAEP Data To Improve Education Performance

The NAEP redesign states that the National Assessment shall assist states, districts and others, who want to do so at their own cost, to link their test results to the National Assessment. The policy also provides that NAEP shall be designed to permit access and use by others of NAEP data and materials. These include frameworks, specifications, scoring guides, results, questions, achievement levels, and background data. In addition, the policy provides that steps be taken to protect the integrity of the NAEP program and the privacy of individual test takers.

Status of Implementation

The State of Maryland and the State of North Carolina have collaborated with Governing Board on studies to examine the content of their respective state mathematics test in light of the content of NAEP. The National Center for Education Statistics has a special grants program that provides funds to analyze NAEP data. The NCES has amended priorities for this grants program to encourage applications from states (and others) to conduct analyses that will be practical benefit in interpreting NAEP results and in improving education performance. The National Academy of Sciences report ''Uncommon Measures,'' describes the many technical difficulties involved in linking state results to NAEP. The NCES is planning a major conference with the states to provide a forum for discussing and addressing these difficulties. In addition NCES is planning to conduct studies on various linking methodologies to provide insight on how the linking of NAEP and state assessments may best be done.

National Assessment Redesign: Implications for Reauthorization

The Governing Board's redesign policy is directed at the operation of the National Assessment program. It does not address governance of the National Assessment. While there are a number of areas in the current NAEP legislation for which change should be considered, the NAEP redesign policy can, with two exceptions, be implemented within the current NAEP legislation.

The first exception has to do with the subjects to assess. Current law ties the subjects covered by NAEP to reading, and the other subjects listed in the national education goals. The Governing Board agrees that these subjects should be assessed by the National Assessment and, accordingly, has adopted the schedule displayed in Table 1 above. However, the national education goals are about to expire. The Governing Board recommends that, with respect to subjects to assess, the reauthorization of the National Assessment should be consistent with the schedule of assessments adopted by the Governing Board.

The second issue has to do with long-term trend assessments. Current law requires that assessments using age-based samples be conducted at least once every two years. Since the only assessments using age-based samples are the reading, science and mathematics long-term trend assessments, this provision is interpreted as requiring long-term trend assessments once every two years. In accordance with the schedule of assessments, the Governing Board recommends that the NAEP legislation be modified so that the frequency of the long-term trend assessments is changed to at least once every four years.

Conclusion

The National Assessment in the next century will provide student achievement results at the national level each year. State-level data will be provided every other year. Student achievement in reading, writing, mathematics and science will, appropriately, receive the most attention, with testing once every four years, but not to the exclusion of other important subjects. By continuing to report results using achievement levels and improving the process by which achievement levels are set, the National Assessment will help advance standards-based assessment and reporting in the United States. With a focus on its core purpose—measuring and reporting on the status of student achievement and change over time—the National Assessment design can be made more streamlined, more effective, and more efficient. With a clear sense of its primary audience—The general public—National Assessment reports will have more impact.

With a predictable schedule of assessments and reporting of National Assessment results, the public at regular intervals will discuss and debate education quality, states can plan ahead for their participation, and educators will have an external standard against which to compare their own efforts.

Additional Information: Written comments must be received by June 9, 1999 at the following address: Mark D. Musick, Chairman (Attention: Ray Fields), National Assessment Governing Board, 800 North Capitol Street NW, Suite 825, Washington, DC 20002–4233.

Written comments also may be submitted electronically by sending electronic mail (e-mail) to Ray__Fields@ED.GOV by June 9, 1999. Comments sent by e-mail must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Inclusion in the public record cannot be guaranteed for written statements, whether sent by mail or electronically, received after June 9, 1999.

Public Record: A record of comments received in response to this notice will be available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays, in Suite 825,

800 North Capitol Street, NW, Washington, DC, 20002.

Dated: May 17, 1999.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–12746 Filed 5–19–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–50–000]

PacifiCorp; Notice of Filing

May 14, 1999.

Take notice that on May 13, 1999, PacifiCorp filed a correction to Richard T. O'Brien's testimony which was filed with the Application in this docket.

Specifically, the name ''ScottishPower'' should be substituted for the name ''PacifiCorp'' at the end of the 17th line on page 4 of Mr. O'Brien's testimony.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 FR 385.211 and 385.214). All such motions and protests should be filed on or before May 24, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12682 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–303–000]

Western Gas Interstate Company; Notice of Request for Waiver

May 14, 1999.

Take notice that on May 7, 1999, Western Gas Interstate Company (WGI), 211 North Colorado, Midland, Texas 79701, tendered for filing a petition for waiver of the electronic communication and Internet transaction requirement of the Commission's Order Nos. 587, et seq. WGI states that it is a small company located in a discrete geographic area with only five customers, and that the cost of compliance is prohibitive. Further, WGI states that all gas on its system is delivered to end users and municipal distribution systems, and that no gas is delivered for further transportation to any interstate or intrastate pipeline. According, to WGI, its customers have never released capacity or used its existing electronic bulletin board, and make their nominations directly to other pipelines that control all system interconnects.

WGI states that copies of its filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12670 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–30–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 14, 1999.

Take notice that on May 7, 1999, Reliant Energy Gas Transmission Company (''REGT''), formerly NorAm Gas Transmission Company, tendered for filing its FERC Gas Tariff, Fifth Revised Volume No. 1 superseding Fourth Revised Volume No. 1, to be effective June 6, 1999.

REGT states that the purpose of this filing is to reflect its name change to Reliant Energy Gas Transmission Company and also to make minor ministerial changes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12668 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–29–000]

Williston Basin Interstate Pipeline Company; Notice of Filing

May 14, 1999.

Take notice that on May 7, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506–5601, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised

tariff sheets to become effective May 7, 1999:

Second Revised Volume No. 1

Twenty-first Revised Sheet No. 777
Fifteenth Revised Sheet No. 778

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12669 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

May 14, 1999.

a. *Type of filing:* Notice of Intent To File an Application For A New License.

b. *Project No.:* 1979.

c. *Date Filed:* March 25, 1999.

d. *Submitted By:* Wisconsin Public Service Corporation, current licensee.

e. *Name of Project:* Alexander Hydroelectric Project.

f. *Location:* On the Wisconsin River (river mile 325) near Merrill, in Lincoln County, Wisconsin.

g. *Filed Pursuant To:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's Regulations.

h. *Licensee Contact:* Gregory W. Egtvedt, Wisconsin Public Service Commission, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307–9002, (920) 433–5713.

i. *FERC Contact:* Any questions on this notice should be addressed to Frankie Green via phone at (202) 501–7704, or e-mail frankie.green@ferc.fed.us.

j. *Effective Date Of Current License:* April 1, 1985.

k. *Expiration Date Of Current License:* June 30, 2004.

l. *The project consists of:* (1) A 38-foot-high dam consisting of a 338-foot-long overflow section controlled by eleven steel radial gates, an 8-foot-wide trash sluiceway, a 148-foot-long non-overflow concrete gravity section, a 95-foot-long powerhouse section, a 90-foot-long retaining wall, and a 515-foot-long earthen embankment; (2) a reservoir with a surface area of approximately 803 acres; (3) a powerhouse housing three 1,400-kW generators for a total installed capacity of 4,200 kW; and (4) an electric transmission substation and appurtenant facilities.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 30, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12671 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

May 14, 1999.

a. *Type of Filing:* Notice of Intent to File an Application for a New License.

b. *Project No.:* 2574.

c. *Date Filed:* April 30, 1999.

d. *Submitted By:* The Merimil Limited Partnership—current licensee.

e. *Name of Project:* Lockwood Project.

f. *Location:* On the Kennebec River, near the cities of Waterville and Winslow, in Kennebec County, Maine.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Frank H. Dunlap, FPL Energy Maine Hydro LLC, 100 Middle Street, Portland, ME 04101 (207) 771–3534.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, or (202) 219–2778.

j. *Effective date of current license:* may 1, 1954.

k. *Expiration date of current license:* April 30, 2004.

l. *The project consists of the following existing facilities:* (1) A 225-foot-long, 14.3-foot-high concrete overflow dam and a 650-foot-long, 14.5-foot-high concrete overflow dam, connected by an island; (2) a headgate structure; (3) a 81.5-acre reservoir at normal water surface elevation of 52.16 feet msl; (4) a 450-foot-long forebay canal; (5) two powerhouses containing seven generating units with a total installed capacity of 6,915 kW, (6) a 110-foot-long tailrace; (7) two transmission lines totaling 2,100-feet-long; and (8) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12672 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Accepting Application for Filing and Requesting Interventions and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 11541–001.

c. *Date Filed:* February 26, 1999.

d. *Applicant:* Atlanta Power Company, Inc.

e. *Name of Project:* Atlanta Power Station Hydroelectric Project.

f. *Location:* On the Middle Fork Boise River in Elmore County, Idaho, near the town of Atlanta within the Boise National Forest (T5N,R11E, sections 5, 4, 3, 2, and 11 Boise Meridian).

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Lynn E. Stevenson, President Atlanta Power Company, Inc., Box 100, Fairfield, ID (208) 352–4692.

Michael C. Creamer, Esq. Givens Pursley LLP, 277 N. 6th Street, suite 200, P.O. Box 2720, Boise, ID 83701 (208) 388–1200.

i. *FERC Contact:* Gaylord W. Hoisington, E-mail address Gaylord.Hoisington@FERC.FED.US, or telephone (202) 219–2756.

j. *Deadline for filing motions to intervene and protest:* 60 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.

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 documents on that resource agency.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The proposed project would consist of the existing Atlanta Power Station facilities located at the Forest Service's Kirby Dam, consisting of: (1) A penstock intake structure; a powerhouse, containing a single generating unit with a capacity of 187 kilowatts; and (3) other appurtenances.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12673 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 11616–000.

c. *Date Filed:* June 1, 1998.

d. *Applicant:* City of Portland, Michigan.

e. *Name of Project:* Portland Municipal Hydroelectric Project.

f. *Location:* On the Grand River, near the town of Portland, in Ionia County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert Masselink, P.E., Earth Tech, Inc., 5555 Glenwood Hills Pkwy., Grand Rapids, MI 49588, (616) 942–9600.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address michael.spencer@ferc.fed.us, or telephone 202–219–2846.

j. Deadline for filing motions to intervene and protest: 60 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, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of that document on that resource agency.

k. Status of Environmental Analysis: This application is not ready for environmental analysis at this time.

l. Description of the project: The project consists of the following existing facilities: (1) a 13-foot-high, 285-foot-long earthen dam with a 325-foot-long concrete spillway; (2) a reservoir with a surface area of 90 acres, and a storage are of 140 acre-feet; (3) a powerhouse with forebay, located at the south abutment of the spillway, containing two generating units with a combined installed capacity of 375 kW and an average annual generation of 1,572,000 kWh; (4) a substation; and (5) appurtenant facilities.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, DC 20426. This filing may be viewed on the web at htt;;//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.

Development Application—Any qualified applicant desiring to file a competing application must submit to the commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for

preliminary permits will not be accepted in response to this notice.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. in determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervne must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12674 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11689–000.

c. *Dated filed:* February 23, 1999.

d. *Applicant:* Alpine Power Company.

e. *Name of Project:* Stuyvesant Falls Project.

f. *Location:* On the Kinderhook Creek, near the Towns of Stuyvesant and Stockport, Columbia County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—(825).

h. *Applicant Contact:* Mr. Charles R. Pepe, Alpine Power Company, P.O. Box 707, Old Quarry Road, Alpine NJ 07620.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address at Spencer. Michael@FERC.fed.us, or telephone (202) 219–2846.

j. Deadline for filing motions to intervene and protest: 60 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.

The Commission's Rules and 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 Project: The proposed project would consist of the following existing features: (1) a 13-foot-high, 220-foot-long stone-masonry gravity dam; (2) a 46 acre pond with minimal storage capacity; (3) two 7.5-foot-diameter, 2,860-foot-long steel pipelines; (4) a 26-foot-diameter surge tank; (5) two 7.5-foot-diameter, 200-foot-long penstocks; (6) a powerhouse containing a generating unit with a proposed rehabilitated capacity of 4,200 kW and an estimated average annual generation of 13.0 GWh; and (7) a 1,500-foot-long transmission line.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 219–1371. 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.

Preliminary Permit—Anyone desiring a file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36.). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

Proposes Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed perliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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 becomes 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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of any agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12675 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11698–000.

c. *Date Filed:* March 12, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Cave Run Lake Dam Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Cave Run Lake Dam on the Licking River, near the Towns of Morehead, Farmers, and Scranton, and in Rowan County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electrical Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Susan Tseng (202) 219–2798 or E-mail address at susan.tseng@ferc.fed.us.

j. Deadline for filing comments, motions to intervene, and protests: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would utilize the existing U.S. Army Corps of Engineers Cave Run Lake Dam and consist of: (1) A new powerhouse on the downstream side of the dam with a total installed capacity of 5,000 kW; (2) a new 14.7 kV transmission line; and (3) other appurtenances.

Applicant estimates that the average annual generation would be 31,000 MWh and the cost of the studies under the permit would be $1,250,000.

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, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for a preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Prelimimanry Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12676 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11699–000.

c. *Date Filed:* March 12, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Rough River Lake Dam Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Rough River Lake Dam on the Rough River, near the Towns of McDaniels and Leitchfield, and in Grayson County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Susan Tseng (202) 219–2798 or E–mail address at susan.tseng@ferc.fed.us.

j. Deadline for filing comments, motions to intervene, and protests: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would utilize the existing U.S. Army Corps of Engineers Rough River Lake Dam and consist of: (1) a new powerhouse on the downstream side of the dam with a total installed capacity of 6,100 kW; (2) a new 14.7 kV transmission line; and (3) other appurtenances.

Applicant estimates that the average annual generation would be 37,000 MWh and the cost of the studies under the permit would be $1,500,000.

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, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 19 CFR 385.210, .211 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATIONS'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12677 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11701–000.

c. *Date Filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kentucky L&D #10 Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Kentucky L&D #10 on the Kentucky River, near the City of Winchester in Madison County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Susan Tseng (202) 219–2798 or E-mail address at susan.tseng@ferc.fed.us.

j. Deadline for filing comments, motions to intervene, and protests: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would utilize the existing U.S. Army Corps of Engineers Kentucky L&D #10 and consist of: (1) a new powerhouse on the downstream side of the dam with a total installed capacity of 2,550 kW; (2) a new 14.7 kV transmission line; and (3) other appurtenances.

Applicant estimates that the average annual generation would be 16,000 MWh and the cost of the studies under the permit would be $750,000.

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, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A Preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12678 Filed 5–19–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11702–000.

c. *Date Filed:* March 15, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Kentucky L&D #9 Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Kentucky L&D #9 on the Kentucky River, near the City of Richmond in Jessamine County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Susan Tseng (202) 219–2798 or E–mail address at susan.tseng@ferc.fed.us.

j. Deadline for filing comments, motions to intervene, and protests: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of the Project: The project would utilize the existing U.S. Army Corps of Engineers Kentucky L&D #9 and consist of: (1) a new powerhouse on the downstream side of the dam with a total installed capacity of 2,550 kW; (2) a new 14.7 kV transmission line; and (3) other appurtenances.

Applicant estimates that the average annual generation would be 16,000 MWh and the cost of the studies under the permit would be $750,000.

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 http://www.ferc.fed.us/rims/htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12679 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11728–000.

c. *Date filed:* April 19, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Columbia L&D Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Columbia Lock and Dam on the Ouachita River, near the Town of Columbia, Caldwell County, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Jack Duckworth (202) 219–2818, Jack.Duckworth@FERC.fed.us.

j. Deadline for filing motions to intervene and protest: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The proposed project would utilize the existing U.S. Army Corps of Engineers' Columbia Lock and Dam, and would consist of the following facilities: (1) 5 new 60-foot-long and 84-inch-diameter steel penstocks; (2) a new powerhouse to be constructed on the downstream side of the dam having 5 turbine/generating units with a combined total installed capacity of 5,400 kilowatts; (3) a new 600-foot-long, 4.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 33 gigawatt hours. The cost of the studies under the permit will be about $1,500,000.

l. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application on later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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 representative.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12680 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

May 14, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11729–000.

c. *Date filed:* April 19, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Jonesville L&D Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Jonesville Lock and Dam on the Black River, near the Town of Simmesport, Catahoula County, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Jack Duckworth (202) 219–2818, Jack.Duckworth@FERC.fed.us.

j. Deadline for filing motions to intervene and protest: 60 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, N.E., Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The proposed project would utilize the existing U.S. Army Corps of Engineers' Jonesville Lock and Dam, and would consist of the following facilities: (1) 5 new 50-feet-long and 62-inch-diameter steel penstocks; (2) a new powerhouse to be constructed on the downstream side of the dam having 5 turbine/generating units with a combined total installed capacity of 4,500 kilowatts; (3) a new 1,000-foot-long, 14.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 28 gigawatt hours. The cost of the studies under the permit will be about $1,500,000.

l. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

Prelimary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.32(a) and (b)(1).

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent to file a development appplication allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.32(a), (b), and (c).

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the application(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—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 and .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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary and an additional copy must be sent to Director, Division of Project Review, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—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 an 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–12681 Filed 5–19–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6346–1]

National Drinking Water Advisory Council; Health Care Provider Outreach and Education Working Group; Notice of Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Health Care Provider Outreach and Education Working Group of the National Drinking Water Advisory Council (NDWAC) established under the Safe Drinking Water Act, as amended (U.S.C. S300f *et. seq.*), will be held on June 1, 1999, from 10:30 a.m. to 5:30 p.m., and on June 2, 1999, from approximately 8:30 a.m. to 3:30 p.m., EST. The meeting will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, Washington, DC, (202) 484–1000. The meeting is open to the public, but seating will be limited.

The purpose of this meeting is to review the Health Care Provider Outreach and Education Working Group's progress in preparing draft strategic recommendations to NDWAC, including key issues and messages. The group will also discuss approaches and networks to disseminate information to health care professionals on drinking water issues. Statements from the public will be taken as time allows.

For more information, please contact Ron Hoffer, Designated Federal Officer, Health Care Provider Outreach and Education Working Group, U.S. EPA, Office of Ground Water and Drinking Water, Mail Code 4607, 401 M Street SW, Washington, D.C. 20460. The telephone number is 202/260–7096 and the e-mail address is *hoffer.ron@epa.gov*.

Dated: May 14, 1999.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 99–12752 Filed 5–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–6347–3]

Public Stakeholder Meetings on the National Strategy To Develop Regional Nutrient Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public stakeholder meeting on the national strategy to develop regional nutrient criteria.

SUMMARY: The Environmental Protection Agency (EPA) is holding a stakeholder meeting on June 10, 1999 to stimulate an information exchange with stakeholders on issues related to the National Strategy to Develop Regional Nutrient Criteria.

DATES: The public stakeholder meeting will start at 9:00 AM and adjourn at 5:30 PM on June 10, 1999.

FURTHER INFORMATION CONTACT: Robert Cantilli (4304), U.S. EPA, 401 M St. S.W., Washington, D.C. 20460 (Telephone: (202) 260–5546).

SUPPLEMENTARY INFORMATION: The public stakeholder meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA for the purpose of conducting an information exchange with stakeholders on issues related to the National Strategy to Develop Regional Nutrient Criteria. The public stakeholder meeting is to provide an opportunity for interested persons to discuss the issues and process for developing and implementing regional nutrient criteria. The stakeholder meeting will also be an opportunity for substantive input and dialogue with the primary authors of the Nutrient Waterbody Type Guidance Documents. Participants for the stakeholders meeting who wish to make comments or ask questions are strongly encouraged to provide an advance written request due to potential time limitations. Requests to speak at the stakeholder meeting should be made to Gregory Smith, Great Lakes Environmental Center, Inc. at (614) 487–8236 or by e-mail at: gsmith__glec@compuserve.com.

EPA is inviting all interested members of the public to participate in the stakeholder meeting. Approximately 150 seats will be available for the public. Seats will be available on a first-come, first served basis. On-site registration for the meeting will begin at 8:00 AM.

For additional information about the meeting, please contact Robert Cantilli of EPA's Office of Science and

Technology at (202) 260–5546 or by e-mail at cantilli.robert@epa.gov.

Dated: May 12, 1999.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 99–12755 Filed 5–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6347–4]

Public Meeting of the Urban Wet Weather Flows Advisory Committee, the Storm Water Phase II Advisory Subcommittee, and the Sanitary Sewer Overflow Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is given that the Environmental Protection Agency (EPA) is convening a public meeting of the Sanitary Sewer Overflow (SSO) Advisory Subcommittee to discuss the draft National Pollutant Discharge Elimination System (NPDES) standard permit conditions; NPDES regulations and policies for municipal sanitary sewer collection systems. This meeting is open to the public. Advance registration is not necessary, although seating is limited.

DATES: July 28–29, 1999.

ADDRESSES: The Madison Hotel (2nd floor), Fifteenth & M Street, NW, Washington, DC. The hotel's telephone number is (202) 862–1600. A small block of government-rate rooms are available; deadline for registration is June 27, 1999. The meeting will start at approximately 9:00 a.m. EST and end at approximately 4:00 p.m. on both days.

FOR FURTHER INFORMATION CONTACT: Sharie Centilla, Office of Wastewater Management, at (202) 260–6052 or Internet: centilla.sharie@epa.gov.

Materials that are sent to the SSO FAC, along with logistics for the meeting, will be available on the EPA website: *http://www.epa.gov/owm/wet.htm*.

Dated: May 13, 1999.

Michael B. Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 99–12756 Filed 5–19–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6345–9]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), 42 U.S.C. 9601–9675, notice is hereby given that a proposed prospective purchaser agreement (''Purchaser Agreement'') associated with the Fike Chemical Superfund Site (''Site'') in Nitro, West Virginia, was executed by the Environmental Protection Agency and the Department of Justice. The Purchaser Agreement is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or considerations which indicate that the Purchaser Agreement is inappropriate, improper, or inadequate. The Purchaser Agreement will resolve certain potential EPA claims under section 107 of CERCLA, 42 U.S.C. 9607, against the City of Nitro Development Authority (''Purchaser''). The property subject to the Purchaser Agreement is the Site, which encompasses two parcels separated by a distance of 500 feet, totaling 12.7 acres. The property is located on an access roadway off Viscose Road, which is accessed from WV Route 25 in the city of Nitro, Kanawha and Putnam Counties, West Virginia. The property consists of an abandoned chemical reformulation facility, a wastewater treatment plant (CST) and an office building. Response actions and long term remedial actions on the Property have been conducted or overseen by EPA since 1988, when chemical manufacturing operations ceased and the Site owners abandoned the property. Additional work to address contaminated soil and ground water is ongoing. Under the terms of the Purchaser Agreement, the Purchaser will file deed restrictions to ensure that the property will remain industrial in use and will cooperate with EPA in the continued implementation of response actions at the Site.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the proposed Purchaser Agreement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before June 21, 1999.

ADDRESSES: The proposed Purchaser Agreement and additional background information relating to the proposed Purchaser Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Purchaser Agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Fike Chemical Superfund Site Prospective Purchaser Agreement'' and ''EPA Docket No. III–98–004–DC,'' and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Michael H. Frankel (3RC41), Paralegal Specialist, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2665.

Dated: May 12, 1999.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–12753 Filed 5–19–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–011632–001
Title: Turkey/United States Rate Agreement
Parties:

Farrell Lines, Inc.
Turkon Container Transport & Shipping Inc.

Synopsis: The proposed modification would authorize the parties to discuss and agree upon the terms of their individual service contracts, to exchange information regarding such contracts, and to adopt voluntary guidelines with respect to their individual contracts. The modification also deletes reference to tariff filing with the Commission. The parties have requested expedited review.

Agreement No.: 224–201077
Title: Tioga Marine Terminal Sublease Agreement
Parties:
Delaware River Stevedores, Inc.
Tioga Fruit Terminal, Inc.
Synopsis: The proposed agreement is a sublease arrangement conveying certain facilities to Tioga Fruit. The agreement runs through March 31, 2003.

Dated: May 14, 1999.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–12655 Filed 5–19–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

American Pioneer Shipping LLC, 1308 Centennial Avenue, Suite 116, Piscataway, NJ 08854, Officer: Wenli Jiang, General Manager (Qualifying Individual)

Airlift (U.S.A.), Inc. d/b/a Airlift Container Line, 11099 S. La Cienega Blvd., Suite 151, Los Angeles, CA 90036, Officers: Ganesh Murthy, President, Flavia Russo, Vice President (Qualifying Individual)

Quad City Port Services, Inc., 1634 State Street, Bettendorf, IA 52722, Officer: Richard R. Weeks, President (Qualifying Individual)

Petcon Air Freight (USA) Inc., 175–01 Rockaway Blvd., Suite 215, Jamaica, NY 11434, Officer: Peter Yu, President (Qualifying Individual)

Airgate International (SFO) Corp., 484 Grandview Drive, S. San Francisco, CA 94080, Officers: Joanna Chan, President Alex Chan, Vice President (Qualifying Individual)

Inter-Florida Container Transport, Inc., 7225 NW 25 Street, Suite 303, Miami, FL 33122, Officer: Mercedes Torres, President (Qualifying Individual)

Dated: May 14, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–12683 Filed 5–19–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 9823563 & 9823565]

Dell Computer Corporation and Micron Electronics, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the two consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sally Forman Pitofsky or Rolando Berrelez, FTC/S–4429, 601 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3224.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. Electronic copies of the full text of the consent agreement packages can be obtained from the FTC Home Page (for May 13th, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' Paper copies can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

Summary: The Federal Trade Commission has accepted separate agreements, subject to final approval, from Dell Computer Corporation (''Dell'') and Micron Electronics, Inc. (''Micron'') (collectively referred to as ''respondents''). The proposed consents resolve allegations that respondents created and disseminated computer lease advertisements that violate the Federal Trade Commission Act (''FTC Act''), the Consumer Leasing Act (''CLA''), and Regulation M.

Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease advertising under the CLA and directed the Federal Reserve Board (''Board'') to promulgate a regulation implementing such statute—Regulation M. *See* 15 U.S.C. 1667–1667e; 12 CFR Part 213.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

I. Dell and Micron Complaints

A. FTC Act Violations—Lease Advertising

1. Failure to Disclose Adequately that Transaction Advertised is a Lease.

Count I of the Dell complaint alleges that respondent Dell, in lease advertisements, represents that consumers can purchase the advertised computer systems for the monthly payment amounts prominently stated in the advertisements. These advertisements allegedly do no adequately disclose that each advertised monthly payment amount is a component of a lease offer. The Dell complaint alleges that the existence of this additional information would be material to consumers in deciding whether to lease or purchase a computer from Dell. Count I, therefore, alleges that the failure to disclose adequately this additional information, in light of the representation made, was, and is, a deceptive practice in violation of Section 5 of the FTC Act.

2. Failure to Disclose, and/or Failure to Disclose Adequately, Lease Terms.

Count II of the Dell complaint and Count I of the Micron complaint allege that respondents' lease advertisements represent that consumers can obtain the advertised computer systems at the terms prominently stated in the advertisements, including but not limited to the monthly payment amount. These advertisements allegedly fail to disclose, and/or fail to disclose adequately, additional terms pertaining to the lease offers, such as the total amount of any payments due at lease inception and/or the term of the lease. The existence of this additional information would be material to consumers in deciding whether to lease the advertised computer systems from respondents, according to the complaints, These practices, according to the complaints, constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

B. CLA and Regulation M Violations

Dell and Micron's lease advertisements also allegedly violate the CLA and Regulation M. According to the complaints, these respondents' computer lease advertisements state a monthly payment amount but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the CLA and Regulation M, including one or more of the following terms: that the transaction advertised is a lease; the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation, and that such amount: (1) excludes third-party fees, such as taxes, licenses, and registration fees, and discloses that fact or (2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; and the number, amount, and timing of scheduled payments.

Respondents' television, Internet, and/or print disclosures are not clear and conspicuous because they appear in fine print at the bottom of the advertisements. The Dell and Micron complaints, therefore, allege that these practices violate Section 184 of the CLA, 15 U.S.C. 1667c, as amended, and Section 213.7 of Regulation M, 12 CFR 213.7 as amended.

II. Proposed Consent Orders

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent respondents from engaging in similar acts and practices in the future. Specifically, subparagraph I.A. of the Dell proposed order prohibits Dell from failing to disclose clearly and conspicuously that any advertised lease terms, including but not limited to a monthly payment amount or downpayment, pertain to a lease offer.

Subparagraph I.B. of the Dell proposed order and subparagraph I.A. of the Micron proposed order prohibit respondents, in any lease advertisements, from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such amount is due, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease inception. The ''equal prominence'' requirement prohibits respondents from running deceptive advertisements that highlight low amounts ''down,'' with inadequate disclosures of actual total inception fees. This ''Equal prominence'' requirement for lease inception fees also is found in Regulation M.

Moreover, subparagraph I.C. of the Dell proposed order and subparagraph I.B. of the Micron proposed order prohibit respondents, in any lease advertisement, from stating the amount of any payment, or that any or no initial payment is required at consummation of the lease, unless the advertisement also states, clearly and conspicuously, all of the terms required by Regulation M, as follows: (1) that the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term where the liability of the consumer at lease end is based on the anticipated residual value of the leased property.

The information required by subparagraphs I.C. and I.B. of the Dell and Micron proposed orders, respectively, must be disclosed ''clearly and conspicuously'' as defined in the proposed orders. The ''clear and conspicuous'' definition requires respondents to present such lease information, as applicable, within the advertisement so that an ordinary consumer can read, or hear, and comprehend it. This definition is consistent with the ''clear and conspicuous'' requirement for advertising disclosures in Regulation M that require disclosures that consumers can see and read (or hear) and comprehend. It is also consistent with prior Commission orders and statements interpreting Section 5 to require that advertising disclosures be readable (or audible) and understandable to reasonable consumers.

Finally, subparagraph I.D. of the Dell proposed order and subparagraph I.C. of the Micron proposed order enjoin respondents from failing to comply in any other respect with Regulation M, 12 CFR 213, as amended, and the CLA, 15 U.S.C. 1667–1667e, as amended.

Like prior Commission orders involving lease advertising, these orders refer to Regulation M and the CLA, as amended, Thus, these orders contemplate that any modification to the advertising disclosure requirements provided in Regulation M or the CLA will be incorporated automatically into those parts of the orders referencing those laws.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–12660 Filed 5–19–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9823633]

Fitness Quest, Inc., et al; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Robert Frisby & Robin Spector, FTC/S–4302, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2098 or (202) 326–3740.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 12th, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accomplished, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Fitness Quest, Inc. and Robert R. Schnabel, Jr. The agreement would settle a proposed complaint by the Federal Trade Commission that Fitness Quest and Robert R. Schnabel, Jr. engaged in unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertising practices related to the sale of exercise equipment and weight-loss products, including the ''Airofit,'' ''SkyTrek'' and ''Gazelle Glider,'' exercise gliders, and the ''Ab Isolator'' and ''Abs Only Machine'' abdominal exercise devices. The proposed complaint charges that, through the use of statements contained in its advertisements and promotional materials, the respondents made the following unsubstantiated representations for their exercise gliders: (A) Under conditions of ordinary use, the Airofit (1) burns calories at a rate of up to 1,000 per hour; (2) burns three times more calories than burned while walking; (3) burns nearly twice the calories burned while cross-country skiing or exercising on a treadmill; (4) burns significantly more calories than are burned while swimming, bicycling or doing step aerobics; and (5) causes significant weight loss; (B) Testimonials from consumers appearing in advertisements for the Airofit reflect the typical or ordinary experience of members of the public who use the product; (C) Under conditions of ordinary use the SkyTrek (1) burns calories at a rate of up to 1,000 per hour; (2) burns three times more calories than burned while walking at 3 m.p.h.; and (3) burns nearly two times the calories burned while cross country skiing at 5 m.p.h.; and (D) Under conditions of ordinary use the Gazelle Glider (1) burns calories at a rate of up to 1,000 per hour; (2) burns three times more calories than burned while walking at 3 m.p.h.; (3) burns nearly twice the calories burned while cross country skiing at 5 m.p.h.; and (4) burns more calories than burned while running at 5.5 m.p.h.

The proposed complaint also charges that the respondents made the following unsubstantiated representations for their abdominal exercise devices: (A) The Ab Isolator is twice as effective as regular sit-ups; (B) The Ab Isolator is more effective than other abdominal exercise devices; (C) Use of the Ab Isolator three minutes a day results in a significantly reduced waistline in thirty days; (D) Use of the Ab Isolator results in a significant reduction in clothing size and waistline; (E) Testimonials from consumers appearing in advertisements for the Ab Isolator reflect the typical or ordinary experience of members of the public who use the product; and (F) The Abs Only Machine is twice as effective as regular sit-ups.

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the respondents from making any representation about the benefits, performance or efficacy of any exercise equipment or weight-loss product unless, at the time they make the representation, they possess and rely upon competent and reliable evidence, which when appropriate must be scientific evidence, that substantiates the representation. Part I also provides that nothing in the order shall prohibit the respondents from making a truthful statement that merely describes the existence, design, instructions for use, or content of any such product.

Part II of the proposed order prohibits the respondents from representing that the experience represented by any user testimonial or endorsement of any exercise equipment or weight-loss product represents the typical or ordinary experience of members of the public who use the product unless either: (A) at the time it is made, the respondents possess and rely upon competent and reliable evidence that substantiates the representation; or (B) the respondents disclose, clearly and prominently, and in close proximity to the endorsement or testimonial, either (1) what the generally expected results would be for users of the product; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve. Part II lists six statements that would satisfy the disclosure requirement:

(a) ''You should not expect to experience these results.''
(b) ''This result is not typical. You may not do as well.''

(c) ''This result is not typical. You may be less successful.''
(d) ''_____'s success is not typical. You may not do as well.''
(e) ''_____'s experience is not typical. You may achieve less.''
(f) ''Results not typical.''

The proposed order also contains standard provisions regarding record-keeping, notification of changes in the respondents' status, the filing of a compliance report, and termination of the order. In addition, the proposed order contains a provision requiring distribution of the order that sunsets after three years.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–12659 Filed 5–19–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9810327]

Quexco Incorporated; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Philip Eisenstat, FTC/S–3627, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2769.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 14th, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') from Quexco Incorporated (''Quexco'') relating to a proposed acquisition by Quexco of Pacific Dunlop GNB Corporation (''GNB'').

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

Both Quexco, a Delaware corporation, and GNB, also a Delaware corporation, operate secondary lead smelters. Secondary lead smelters are facilities that recyle products containing lead, such as old lead-acid batteries and other lead bearing products, into pure lead or lead alloys that can be used again by batter manufacturers and other industries. The output of secondary smelters is called secondary lead. Primary lead smelters use lead bearing ore to produce pure lead or lead alloys. The output of primary smelters is called primary lead. For most uses for lead, either primary or secondary lead can be used.

The Proposed Complaint

The proposed complaint alleges that the relevant geographic market for evaluating the acquisition's effect in the relevant product markets is California, and that the proposed acquisition may substantially lessen competition in the smelting and refining of lead in California and in providing lead recycling services in California.

The proposed complaint alleges that Quexco and GNB are the only two operators of lead smelters in California and the only two firms that perform lead recycling in California. The complaint further alleges that the proposed transaction would create a monopoly and give Quexco the ability to unilaterally exercise market power.

The proposed complaint alleges that entry into the alleged markets would not be timely, likely, or sufficient to deter or offset the adverse effects of the acquisition on competition in these markets. Lead is a toxic substance. Construction of a new secondary lead smelter requires extensive permits before construction on a smelter could begin. Obtaining permits for a new smelter in California would take more than two years. Because lead is a toxic substance, community opposition is likely to any new smelters in California, and such community opposition may prevent the opening of any new smelters in California.

The proposed Order would remedy the alleged violation by preserving the competition that would otherwise be lost as a result of Quexco's acquisition of GNB. The proposed Order requires Quexco to divest the GNB secondary smelter in California to Gopher Resources, Inc. (''Gopher''), under the terms of a contract for the sale of that plant between Quexco and Gopher. The proposed Order allows Quexco to complete its acquisition of GNB during the sixty (60) day comment period, but requires that the GNB California smelter be held separate until the Order becomes final and then requires the sale of the smelter to Gopher within 10 days of the Order being made final by the Commission.

The sale of the GNB smelter to Gopher is subject to the approval by the Commission. If the sale to Gopher is not approved by the Commission, then Quexco must rescind the transaction with Gopher and divest the GNB

smelter, within six (6) months after the date on which the Order becomes final, to an acquirer and in a manner that receives the prior approval of the Commission.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–12661 Filed 5–19–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 9910095]

SNIA S.p.A; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christina Perez or Michael Barnett, FTC/S–2308, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2048 or (202) 326–2541.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 14th, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a proposed Consent Order (''Order'') from SNIA S.p.A. (''SNIA''), which is designed to remedy the anticompetitive effects of SNIA's acquisition of all of the outstanding voting securities of COBE Cardiovascular, Inc. (''COBE''), as well as certain cardiopulmonary and other cardiovascular assets and liabilities from other subsidiaries of Gambro AB (''Gambro''). Both SNIA and Gambro manufacture and sell a wide variety of cardiovascular products, including heart-lung machines. The proposed Order remedies the acquisition's anticompetitive effects by requiring SNIA to divest COBE's heart-lung machine business.

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the proposed Order and the comments received and will decide whether it should withdraw from the proposed Order or make final the proposed Order.

Pursuant to an Asset and Stock Purchase Agreement signed on November 23, 1998, SNIA, through its Sorin Biomedica, Inc. subsidiary (''Sorin''), has agreed to purchase 100% of the outstanding voting securities of COBE, as well as certain other assets and liabilities from other subsidiaries of Gambro, for approximately $260 million. The proposed Complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the U.S. market for heart-lung machines.

Heart-lung machines are life-sustaining medical devices that are essential for any surgery that requires the heart to be stopped, such as surgeries to implant coronary artery bypass grafts, repair or replace heart valves, repair cerebral aneurysms, or transplant livers and hearts. A heart-lung machine is the equipment portion of an extracorporeal bypass system, which replaces the function of the heart and lungs during surgery by circulating and providing oxygen to the patient's blood throughout the procedure. In addition to a heart-lung machine, a complete extracorporeal bypass system is comprised of various single-use products, called disposables, that come into direct contact with the patient's blood, and therefore cannot be reused for safety reasons. Approximately 450–550 new units are sold worldwide each year, amounting to $50 million in sales.

The U.S. market for heart-lung machines is highly concentrated and the proposed acquisition would substantially increase concentration in this market. The acquisition would result in a Herfindahl-Hirschman Index (''HHI'') of 4,638 points, which is an increase of 1,554 points over the preacquisition level. SNIA and COBE are two of only four suppliers of heart-lung machines in the United States, with the fourth competitor being significantly smaller than the other three. By eliminating the competition between SNIA and COBE in this highly concentrated market, the proposed acquisition would enhance the likelihood of coordinated interaction between or among the remaining firms in the market, thus increasing the likelihood that consumers in the United States would be forced to pay higher prices for heart-lung machines.

It is unlikely that this lost competition would have been replaced by new entrants into the relevant market due to the substantial barriers to entry into the U.S. market for heart-lung machines. A new entrant into this market would need to undertake the difficult, expensive and time-consuming process of researching and developing a new product, obtaining approval from the U.S. Food and Drug Administration, establishing a nationwide service and sales network and gaining customer acceptance. This is a very difficult

process for new entrants because manufacturers are reluctant to establish a nationwide service and sales network until they have gained customer acceptance and have an established customer base, and customers are reluctant to purchase from a supplier unless it has an established service and sales network. As a result, a new entrant often finds itself in a ''Catch 22'' problem. For these reasons, new entry into the market would not be timely, likely or sufficient to deter or counteract the anticompetitive effects resulting from the acquisition.

The proposed Order remedies the anticompetitive effects in the heart-lung machine market by requiring SNIA to divest COBE's heart-lung machine business to Baxter Healthcare Corporation, a large manufacturer of medical products, including disposables for heart-lung machines, within ten (10) days after the Commission accepts the Agreement Containing Consent Order for public comment, or to another Commission-approved buyer within one hundred eighty (180) days after the Agreement Containing Consent Order is accepted for public comment. In the event that SNIA fails to divest the heart-lung machine assets, or the acquirer fails to obtain FDA approval and the ability to manufacture and sell heart-lung machines, the Commission may appoint a trustee to divest the COBE heart-lung machine business to a new acquirer. The divestiture trustee will have the authority and power to divest the heart-lung machine assets in a manner that satisfies the requirements of the Order.

The proposed Order requires SNIA to provide assistance to the acquirer so that it can compete effectively in the heart-lung machine business. First, SNIA must contract manufacture a supply of heart-lung machines for a limited time period while the acquirer obtains its own FDA approval and obtains the commercial capability to manufacture and sell heart-lung machines in the United States. Second, SNIA must provide technical assistance and advice to help the acquirer in its efforts to begin manufacturing and selling heart-lung machines. The proposed Order enables the acquirer to hire former COBE employees associated with the research, development, manufacture, marketing, or sales of heart-lung machines. Finally, the Order requires SNIA to cooperate with the acquirer in any patent dispute in which a third party attempts to challenge any of the patents divested pursuant to the Order and in which the ability of the acquirer to become an effective competitor in the heart-lung machine market could be affected.

In order to facilitate the smooth transfer of assets and ensure that the acquirer will get the assistance necessary to independently manufacture the products, the proposed Order provides for the appointment of an interim trustee. The interim trustee will serve until the acquirer has received all necessary FDA approvals and obtains the commercial capability to manufacture and sell heart-lung machines. The Order also requires SNIA to provide to the Commission a report of compliance with the divestiture provisions of the Order within thirty (30) days following the date the Order becomes final, and every ninety (90) days thereafter until SNIA has completed the divestiture. The Order also requires SNIA to notify the Commission at least thirty (30) days prior to any change in SNIA that may affect compliance obligations arising out of the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order and the divestiture to Baxter Healthcare Corporation, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–12658 Filed 5–19–99; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 93

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) are aware of numerous activities using computer-generated medical forms, many of which are not mirror images of the genuine paper Standard Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set data standards and require that activities developing computer-generated versions adhere to the required data elements but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those data elements which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following data elements must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 93

Item	Placement*
Text:	
Title: Report of Medical History	Top of form.
Note: This information is for official and medically-confidential use only and will not be released to unauthorized persons.	Top of form.
Form ID: Standard Form 93 (Rev. 6–96)	Bottom right corner of form.

ELECTRONIC ELEMENTS FOR SF 93—Continued

Item	Placement *
I certify that I have reviewed the foregoing information supplies by me and that it is true and complete to the best of my knowledge. I authorize any of the doctors, hospitals, or clinics mentioned above to furnish the Government a complete transcript of my medical record for purposes of processing my application for this employment or service. I understand that falsification of information on Government forms is punishable by fine and/or imprisonment.	Before signature of examinee.
Note: Hand to the doctor or nurse, or if mailed mark envelope ''TO BE OPENED BY MEDICAL OFFICER ONLY''.	
Data Entry Fields:	
No. of Attached Sheets:	
Date of Exam.	
Name of Patient (Last, first, middle).	
Identification Number.	
Grade.	
Home Street Address (Street or RFD; City or Town; State; and ZIP Code).	
Eamining Facility.	
Purpose of Examination.	
Statement of Patient's Present Health and Medications Currently Used.	
Present Health.	
Current Medication.	
Regular or Interm.	
Allergies (include insect bites/stings and common foods).	
Height.	
Weight.	
Patient's Occupation.	
Are you (check one).	
Right Handed.	
Left Handed.	
Past/Current Medical History (response is either Yes, No, or Don't know).	
Household contact with anyone with tuberculosis.	
Tuberculosis or positive TB test.	
Blood in sputum or when coughing.	
Excessive bleeding after injury or dental work.	
Suicide attempt or plans.	
Sleepwalking.	
Wear corrective lenses.	
Eye surgery to correct vision.	
Lack vision in either eye.	
Wear a hearing aid.	
Sutter or stammer.	
Wear a brace or back support.	
Scarlet fever.	
Rheumatic fever.	
Swollen or painful joints.	
Frequent or severe headaches.	
Dizziness or fainting spells.	
Eye trouble.	
Hearing loss.	
Recurrent ear infections.	
Chronic or frequent colds.	
Severe tooth or gum trouble.	
Sinusitis.	
Hay fever or allergic rhinitis.	
Head injury.	
Asthma.	
Shortness of breath.	
Pain or pressure in chest.	
Chronic cough.	
Palpitation or pounding heart.	
Heart trouble.	
High or low blood pressure.	
Cramps in your legs.	
Freuent indigestion.	
Stomach, liver or intestinal.	
Gall bladder trouble or gallstones.	
Jaundice or hepatitis.	
Broken bones.	
Adverse reaction to medication.	
Skin diseases.	
Tumor, growth, cyst, cancer.	
Hernia.	
Hemorrhoids or rectal disease.	
Frequent or painful urination.	

ELECTRONIC ELEMENTS FOR SF 93—Continued

Item	Placement*
Bed wetting since age 12.	
Kidney stone or blood in urine.	
Sugar or albumin in urine.	
Sexually transmitted diseases.	
Recent gain or loss of weight.	
Eating disorder (anorexia, bulimia, etc.).	
Arthritis, Rheumatism, or Bursitis.	
Thyroid trouble or goiter.	
Bone, joint or other deformity.	
Loss of finger or toe.	
Painful or ''trick'' shoulder or elbow.	
Recurrent back pain or any back injury.	
''Trick'' or locked knee.	
Foot trouble.	
Nerve injury.	
Paralysis (including infantile).	
Epilepsy or seizure.	
Car, train, sea or air sickness.	
Frequent trouble sleeping.	
Depression or excessive worry.	
Loss of memory or amnesia.	
Nervous trouble of any sort.	
Periods of unconsciousness.	
Parent/sibling with diabetes, cancer, stroke or heart disease.	
X-ray or other radiation therapy.	
Chemotheraphy.	
Asbestos or toxic chemical exposure.	
Plate, pin or rod in any bone.	
Easy fatigability.	
Been told to cut down or criticized for alcohol use.	
Use illegal substances.	
Use tobacco.	
Females Only—Treated for a female disorder—Yes (Check box).	
Females Only—Treated for a female disorder—No (Check box).	
Females Only—Treated for a female disorder—Don't know (Check box).	
Females Only—Change in menstrual pattern—Yes (Check box).	
Females Only—Change in menstrual pattern—No (Check box).	
Females Only—Change in menstrual pattern—Don't know (Check box).	
Females Only—Date of Last Menstrual Period.	
Females Only—Date of Last Pap Smear.	
Females Only—Date of Last Mammogram.	
Have you been refused employment or been unable to hold a job or stay in school because of: Sensitivity to chemicals, dust, sunlight, etc.—Yes (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Sensitivity to chemicals, dust, sunlight, etc.—No (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to perform certain motions—Yes (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to perform certain motions—No (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to assume certain positions—Yes (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to assume certain positions—No (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to assume certain positions—Other medical reasons (If yes, give reasons.)—Yes (Check box).	
Have you been refused employment or been unable to hold a job or stay in school because of: Inability to assume certain positions—Other medical reasons (If yes, give reasons.)—No (Check box).	
Have you ever been treated for a mental condition? (If yes, specify when, where, and give details)—Yes (Check box).	
Have you ever been treated for a mental condition? (If yes, specify when, where, and give details)—No (Check box).	
Have you ever been denied life insurance? (If yes, state reason and give details)—Yes (Check box).	
Have you ever been denied life insurance? (If yes, state reason and give details)—No (Check box).	
Have you had, or have you been advised to have, any operation? (If yes, describe and give age at which occurred.)—Yes (Check box).	
Have you had, or have you been advised to have, any operation. (If yes, describe and give age at which occurred.)—No (Check box).	
Have you ever been a patient in any type of hospital? (If yes, specify when, where, why, and name of doctor and complete address of hospital)—Yes (Check box).	
Have you ever been a patient in any type of hospital? (If yes, specify when, where, why, and name of doctor and complete address of hospital)—No (Check box).	

ELECTRONIC ELEMENTS FOR SF 93—Continued

Item	Placement*
Have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses? (If yes, give complete address of doctor, hospital, clinic, and details)—Yes (Check box).	
Have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years for other than minor illnesses? (If yes, give complete address of doctor, hospital, clinic, and give details)—No (Check box).	
Have you ever been rejected for military service because of physical, mental, or other reasons? (If yes, give date and reason for rejection)—Yes (Check box).	
Have you ever been rejected for military service because of physical, mental, or other reasons? (If yes, give date and reason for rejection)—No (Check box).	
Have you ever been discharged from military service because of physical, mental, or other reasons? (If yes, give date, reason, and type of discharge; whether honorable, other than honorable, for unfitness or unsuitability.)—Yes (Check box).	
Have you ever been discharged from military service because of physical, mental, or other reasons? (If yes, give date, reason, and type of discharge; whether honorable, other than honorable, for unfitness or unsuitability.)—No (Check box).	
Have you ever received, is there pending or have you ever applied for pension or compensation for existing disability? (If yes, specify what kind, granted by whom, and what amount, when.)—Yes (Check box).	
Have you ever received, is there pending or have you ever applied for pension or compensation for existing disability? (If yes, specify what kind, granted by whom, and what amount, when.)—No (Check box).	
Have you ever been arrested or convicted of a crime, other than minor traffic violations (If yes, provide details.)—Yes (Check box).	
Have you ever been arrested or convicted of a crime, other than minor traffic violations (If yes, provide details.)—No (Check box).	
Have you ever been diagnosed with a learning disability? (If yes, give type, where, and how diagnosed.)—Yes (Check box).	
Have you ever been diagnosed with a learning disability? (If yes, give type, where, and how diagnosed.)—No (Check box).	
List All Immunizations Received.	
Typed or Printed Name of Examinee.	
Signature of Examinee.	
Date of Signature.	
Physician's Summary and Elaboration of All Pertinent Data. (Physician shall comment on all positive answers in Items 7 through 11. Physicians may develop by interview any additional medical history deemed important, and record any significant findings here.)	
Typed or Printed Name of Physician or Examiner.	
Signature of Physician or Examiner.	
Date of Signature.	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mail at StevenK966@aol.com.

Dated: May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12704 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 509

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eleminited the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

ELECTRONIC ELEMENTS FOR SF 509

Item	Placement*
Text:	
Title Progress Notes	Bottom right corner of form.
Form ID: Standard Form 509 (Rev. 5–99)	Bottom right corner of form.
Data Entry Fields:	
Date (Allow at least 49 entries).	
Notes (Allow at least 49 entries).	
Relationship to Sponsor.	
Sponsor's Name—Last.	
Sponsor's Name—First.	
Sponsor's Name—MI.	
Sponsor's ID Number (SSN or other).	
Depart./Service.	
Hospital or Medical Facility.	
Records Maintained At.	
Patient's Identification (Name—Last, first, middle; ID No. or SSN; Sex; Date of Birth; Rank/Grade).	Lower left corner of form.
Ward No.	
Register No.	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mial at StevenK966@aol.com.

Dated: May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12705 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 510

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

ELECTRONIC ELEMENTS FOR SF 510

Item	Placement*
Text:	
Title: Nursing Notes	Tope of form.
Form ID: Standard Form 510 (Rev. 7–91)	Bottom right corner of form.
Data Entry Fields:	
Date.	
Hour A.M.	
Hour P.M.	
Observations (Include medication and treatment when indicated).	
Patient's Name—(last, first, middle)	Bottom left corner of form.
Patient's Grade.	
Patient's Rate.	
Patient's Hospital or Medical Facility.	
Register No.	
Ward No.	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN, National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mail at Steven K966@aol.com.

Dated May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12706 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 505

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 505

Item	Placement*
Text:	
Title: History—Parts 2 and 3	Top of form.
Form ID: Standard Form 505 (Rev. 7–91)	Bottom right corner of form.
Data Entry Fields:	
Instructions (Include (1) Occupation (Civilian and military), (2) Military History (Include geographic locations and dates), (3) Habits (Alcohol, tobacco and drugs) (4) Family History, (5) Childhood Illnesses, (6) Adult Illnesses (7) Operations, (8) Injuries and (9) Drug Sensitivities and Allergic Reactions.	
Instructions (Include (1) General, (2) Head (including (3) Eye, (4) Ear, (5) Nose and Throat), (7) Neck, (8) Respiratory, (9) Cardiovascular, (10) Gastrointestinal, (11) Geniot-Urinary and (12) Gynecological, (13) hemopoietic, (14) Lymphatic, (15) Musculo-Skeletal and (16) Nero-Psychiatric Systems.	
Signature of Physician.	
Date (of Signature).	
Patient's Name—(last, first, middle)	Bottom left corner of form.
Patient's Grade.	
Patient's Rank.	
Patient's Rate.	
Patient's Hospital or Medical Facility.	
Register No.	
Ward No.	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN, National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E–Mail at StevenK966@aol.com.

Dated: May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12707 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 559

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are

approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 559

Item	Placement *
Text:	
Title: Allergen Extract Prescription New and Refill	Top of form.
Form ID: Standard Form 559 (Rev. 4–94)	Bottom right corner of form.
The total of individual antigens and diluent must add up to 10 ml. The total vial volume is 10 ml	Under ''Final Concentration * * * '' entry.
This prescription may be refilled for a period not to exceed 4 years, after which a new prescription must be issued by an authorized prescriber.	Under ''Please list * * * '' entry.
Complete Items 5 (Vials Requested) Through 9 (Strength) for Refills Only	Before ''Item 5 Through 9'' appear on form.
Specific Instructions:	
A. PHYSICIAN MUST ALWAYS BE IMMEDIATELY AVAILABLE IN THE CLINIC AREA.	
B. ALL PATIENTS MUST REMAIN IN THE CLINIC AT LEAST 30 MINUTES AFTER AN INJECTION.	
C. Use a 26–28 gauge needle and give the subcutaneous injection into the lower deltoid area.	
D. Record date, dosage, and any reaction on a separate immunotherapy form.	
E. GRADING AND MANAGEMENT OF REACTIONS:	
(1) Negative (swelling up to 15 mm; i.e., dime size)—progress according to schedule.	
(2) ''A'' (swelling 15–20 mm; i.e., dime to nickel size)—repeat the same dosage.	
(3) ''B'' (swelling 20–25 mm; i.e., nickel to quarter size)—return to the last dosage which caused no reaction.	
(4) ''C'' (swelling persisting more than 12 hours or over 25 mm; i.e., quarter size or larger)—decrease dosage by 50%.	
(5) Systemic reactions (hives, sneezing, generalized itching, asthma, difficulty breathing, or shock) may be controlled by immediately placing a tourniquet above the injection site, and giving up to 0.01 ml/kg of 1:1000 epinephrine up to 0.50 ml every 10–20 minutes subcutaneously. NOTIFY THE PHYSICIAN! For the average adult give 0.10 ml 1:1000 epinephrine subcutaneously in the injection site and 0.20 ml of 1:100 epinephrine in the other arm. Generally the allergen extract dose is reduced to ⅓ the last dosage that caused no systemic reaction and repeated 3 times before increasing dose. If the injections cause repeated reactions or are suspected of causing delayed symptoms repeatedly, or if reactions prevent progression of treatment, please contact the medical facility below for further instructions.	
F. IF THE PATIENT MISSES THE SCHEDULED INJECTION BY:	
Up to 7 days late, increase according to schedule.	
8 to 14 days late, repeat the last dose.	
15 to 21 days late, reduce dose by 25%.	
22 to 28 days late, reduce dose by 50%.	
29 to 42 days late, reduce dose by 75%.	
43 to 56 days late, reduce dose by 90%.	
In a patient with a history of previous shot reactions, severe asthma or severe cardiac disease, the dose may need to be decreased even more. If in doubt, contact the medical facility below.	
If patient misses his/her scheduled injection by over 8 weeks, contact the medical facility below!	
G. If newly informed that patient is pregnant or on beta blockers, notify medical facility below for instructions.	
H. REFILL EXTRACT PRESCRIPTIONS: When starting a new treatment vial, recommend a minimum of 40% reduction in initial dose.	
RECOMMENDED TREATMENT INSTRUCTIONS:	
Progress treatment using one vial at a time starting with the lowest numbered vial. When the schedule for each vial is completed, go to the next higher vial.	Before items 13–13D.
SCHEDULE A	Near Items 13–13C.
0.05 ml	Do.
0.10 ml	Do.
0.25 ml	Do.
0.60 ml	Do.
SCHEDULE B	
0.05 ml	Do.
0.10 ml	Do.
0.20 ml	Do.
0.40 ml	Do.
0.60 ml	Do.
SCHEDULE C	
0.05 ml	Do.
0.10 ml	Do.

ELECTRONIC ELEMENTS FOR SF 559—Continued

Item	Placement *
0.20 ml	Do.
0.30 ml	Do.
0.40 ml	Do.
0.50 ml	Do.
SCHEDULE D	
0.05 ml	Do.
0.10 ml	Do.
0.15 ml	Do.
0.20 ml	Do.
0.30 ml	Do.
0.40 ml	Do.
0.50 ml	Do.
SCHEDULE E	
0.05 ml	Do.
0.07 ml	Do.
0.10 ml	Do.
0.15 ml	Do.
0.20 ml	Do.
0.25 ml	Do.
0.30 ml	Do.
0.35 ml	Do.
0.40 ml	Do.
0.45 ml	Do.
0.50 ml	Do.
SCHEDULE F (Custom Schedule)	
Data Entry Fields:	
New (check box).	
Refill (check box).	
Revision (check box).	
Aqueous (check box).	
Alum Precipitate (check box).	
Final Concentration Below Stated In—	
Protein Nitrogen Unit (PNU/ml) (check box).	
Weight/Volume (WT/VOL) (check box).	
Allergen Unit (AU)/ml is: (check box and entry).	
Please list the most dilute vial as the lowest numbered vial.	
Vial no. XXX is the most concentrated.	
Previous Treatment Programs Will Be Discounted—Yes.	
Previous Treatment Programs Will Be Discounted—No.	
Explain.	
Allergen Contents (allow for at least 33 entries).	
ML Extract (allow for at least 33 entries).	
Conc (allow for at least 33 entries) Diluent.	
Vials Requested (List vial number and strength).	
Asthma Symptoms—Yes or No.	
Prescription Number.	
Systemic Reaction History—Yes or No.	
Date of Last Dose (Mo. Day, Yr.).	
Current Interval (Weeks).	
Amount (e.g., 0.1 ml).	
Vial Number.	
Strength—PNU/ML.	
Strength—Wt/Vol.	
Strength—AU/ML.	
Patient's Address.	
Patient's Telephone—Home.	
Patient's Telephone—Work.	
Send Extract To.	
Date Ordered.	
Requested Treatment—Vial No. (allow for at least 7 entries).	
Requested Treatment—PNU/ml., WT/VOL, Au/ml Content (allows for at least 7 entries).	
Requested Treatment—Days Betw. Shots (allow for at least 7 entries).	
Requested Treatment—Schedule (allow for at least 7 entries).	
When the maximum tolerated dose or a dose of ml (no.) of vial (no.) has been achieved, injections should be administered every weeks (no.).	
An exception to this is during the period (describe).	
When injections should be administered every weeks (no.).	
Custom Extract Label or Remarks.	
The Prescription Must Be Signed By The Ordering Physician—Signature.	
The Prescription Must Be Signed By The Ordering Physician—Rank.	
The Prescription Must Be Signed By The Ordering Physician—Degree.	
Name of Medical Facility.	

ELECTRONIC ELEMENTS FOR SF 559—Continued

Item	Placement *
Telephone Number (Medical Facility).	
Patient's Name—last, first, middle.	
Patient's ID No. or SSN	Bottom left corner of form.
Patient's Sex	Do.
Patient's Date of Birth	Do.
Patient's Sex	Do.
Patient's Treating Facility	Do.

* If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mail at StevenK966@aol.com.

Dated: May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12708 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard For 551

AGENCY: General Services Administration.

ACTION: Guideline on automating Medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 551

Item	Placement *
Text	
Title: Serology	Bottom right corner of form.
Form ID: Standard Form 551 (Rev. 6–77)	Bottom right corner of form.
Test(s)	
Speciment Taken	Under ''Test(s)''.
Data Entry Fields:	
Specimen Lab Rpt. No.	
Urgency—Routine (Check box).	
Urgency—Today (Check box).	
Urgency—Pre-Op (Check box).	
Urgency—Stat (Check box).	
Patient Status—Bed (Check box).	
Patient Status—Amb. (Check box).	
Outpatient—NP (Check box).	
Outpatient—DOM (Check box).	
Specimen Source—Blood (Check box).	
Specimen Source—Other (Check box).	
Specimen Source—Other (Specify).	
Requesting Physician's Signature.	
Reported By—MD.	
Reported By—Tech.	
Date (Reported).	
Lab ID No.	
Remarks.	
Date (Specimen Taken).	
Time (Specimen Taken).	
Requested—Inf. Mono. Qual. (Check box).	
Results—Inf. Mono. Qual.	

ELECTRONIC ELEMENTS FOR SF 551—Continued

Item	Placement*
Requested—Inf. Mono. Quant. (Check box).	
Results—Info. Mono. Quant.	
Requested—RPR—Auto (Check box).	
Requested—RPR—Card (Check box).	
Results—RPR—Auto or Card.	
Requested—VDRL Quanl. (Check box)	
Results—BDRL Quanl.	
Requested—VDRL Quant. (Check box).	
Results—VDRL Quant.	
Requested—FTA–ABS (Check box).	
Results—FTA–ABS.	
Requested—TPHA (Check box).	
Results—TPHA.	
Requested—Rheumatoid Factor (Check box).	
Results—Rheumatoid Factor.	
Requested—Anti-Nuclear Factor (ANF) (Check box).	
Results—Anti-Nuclear Factor (ANF).	
Requested—Cold Agg. (Check box).	
Results—Colg Agg.	
Requested—ASO (Check box).	
Results—ASO.	
Requested—CPR (Check box).	
Results—CPR.	
Requested—Serum Complement (Check box).	
Results—Serum Complement.	
Requested—Febrile AGG (Check box).	
Results—Febrile AGG.	
Requested—Comp. Fix. (Check box).	
Results—Comp. Fix.	
Requested—HAI (Check box).	
Results—HAI.	
Requested—Thyroglobulin Antibody (Check box).	
Results—Thyroglobulin Antibody.	
Requested—Thyroid Microsomal Antibody (Check box).	
Results—Thyroid Microsomal Antibody.	
Patient's Identification	Upper left corner of form.
Treatment Facility	Do.
Ward No.	Do.
Date	Do.

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CMD Steven S. Kerrick, USN National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mail at StevenK966@aol.com.

Dated: May 12, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–12709 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

President's Commission on the Celebration of Women in American History

AGENCY: General Services Administration.

ACTION: Meeting notice cancellation.

SUMMARY: Notice of meeting cancellation is hereby given to the President's Commission on the Celebration of Women in American History regarding open meeting scheduled from 12 p.m. to 5 p.m. on Thursday, May 20, 1999, at the Kennedy Space Center (KSC), Florida, Visitor Complex, Center for Space Education, Pad-A. The notice of the meeting was published in the **Federal Register** on May 6, 1999 at 64 FR 24396. The meeting will be rescheduled for May 27 or 28, same location, to coincide with the launch of Space Shuttle Discovery at the Kennedy Space Center, Florida.

FOR FURTHER INFORMATION CONTACT: Martha Davis (202) 501–0705. Assistant to the Associate Administrator for Communications, General Services Administration. Also, inquiries may be sent to *martha.davis@gsa.gov.*

Dated: May 18, 1999.

Beth W. Newburger,

Associate Administrator for Communications.

[FR Doc. 99–12859 Filed 5–18–99; 11:44 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: General Services Administration.

ACTION: Notice of a revised system of records subject to the Privacy Act of 1974.

SUMMARY: The General Services Administration (GSA) is providing notice of intent to revise the Credit Data on Individual Debtors (GSA/PPFM–7) system of records. The revision incorporates the provisions of the Debt Collection Improvement Act of 1996 to aid in debt collection by including the collection of a new category of records, the individual debtor's Taxpayer Identification Number (TIN), and an expansion of the routine uses to include the dissemination of information about debtors to credit reporting agencies/credit bureaus, the Internal Revenue

Service, state and local governments, and banks enrolled in the Treasury Credit Card Network.

DATES: Comments on the proposed revisions must be provided by June 21, 1999. The proposed revision will become effective without further notice on June 21, 1999, unless comments dictate otherwise.

ADDRESSES: Comments should be addressed to: GSA Privacy Act Officer, General Services Administration, CAI, 1800 F Street, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jinaita Kanarchuk by phone, 202–501–1452, or e-mail jinaita.kanarchuk@gsa.gov.

GSA/PPFM–7

SYSTEM NAME:

Credit Data on Individual Debtors.

SYSTEM LOCATION:

Records are located at the following GSA Central Office and Regional addresses of the Office of Finance.

GS Building, 1800 F Street, NW, Washington, DC 20405.
O'Neill Federal Office Building, 10 Causeway Street, Boston, MA 02222.
Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10007.
Wannamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3396.
401 West Peachtree Street, Atlanta, GA 30365–2550.
John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604.
1500 East Bannister Road, Kansas City, MO 64131.
Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth, TX 76102.
Denver Federal Center Complex, Building 41, Denver, CO 80225.
Phillip Burton Federal Building and US Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102–3434.
400—15th Street, SW, Auburn, WA 98001.
GSA Regional Office Building, Seventh and D Streets, SW, Washington, DC 20407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include employees, former employees, and other individuals who are indebted to the General Services Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Types of personal data in the system may take the form of commercial and agency investigative reports showing debtors' assets, liabilities, income, and expenses; the individual debtor's Taxpayer Identification Numbers (TINS); and other information such as social security numbers and home addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966, Pub. L. 89–508, 80 Stat. 309; Debt Collection Act of 1982, Pub. L. 97–365, 96 Stat. 1749, as amended; the Debt Collection Improvement Act of 1966, Pub. L. 104–134, 110 Stat. 1321–358; Title 4 Code of Federal Regulations, Chapter II, part 105; Cash Management Improvement Act Amendments of 1992, Pub. L. 102–589.

PURPOSE(S):

To assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of effecting enforced collections from the debtors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, GSA may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record may be used where pertinent in any legal proceeding to which GSA is a party before a court or administrative body.

b. A record may be disclosed to the Department of Justice, United States Attorney, or Department of the Treasury in a proceeding when: (1) The United States, GSA, a component of GSA, or, when arising from his or her employment an employee of GSA, is a party to litigation or anticipated litigation or has an interest in such litigation; and (2) GSA determines that the disclosure is relevant or necessary to the litigation.

c. Records may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

d. A record may be disclosed to any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal government on GSA's behalf. GSA may counsel the debtor for voluntary repayment or may initiate administrative or salary offset procedures or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996.

e. In the event that a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant record may be referred to the appropriate Federal agency, and/or state or local agencies charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order.

f. A record from this system may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

g. A record from this system may be disclosed to debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) for the purpose of collecting and reporting on delinquent debts as authorized by the Debt Collection Act of 1982, as amended, or the Debt Collection Improvement Act of 1996.

h. For debt collection purposes, GSA may publish or otherwise publicly disseminate information regarding the identity of delinquent non-tax debtors and the existence of the non-tax debts under the Debt Collection Improvement Act of 1996.

i. Information contained in this system may be disclosed to credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the Debt Collection Improvement Act of 1996, GSA may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt in a timely manner. GSA may report on delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS).

j. Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain

mailing addresses for the purpose of locating the debtors to collect Federal claims.

k. Information contained in the system of records may be disclosed to the Internal Revenue Service for the purpose of offsetting a Federal claim against a debtor's income tax refund.

l. Information in this system may be disclosed to the Internal Revenue Service and applicable state and local governments for tax reporting purposes. Under the provisions of the Debt Collection Improvement Act of 1996, GSA is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on GSA's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including payments to persons not treated as employees (e.g., fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

m. A record from this system may be disclosed to banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

n. A record from this system may be disclosed to Treasury or other Federal agencies with whom GSA has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of GSA to satisfy, in whole or in part, debts owed to the U.S. Government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, and referral to the Department of Justice.

o. Records may be disclosed to Treasury, government corporations, state, or local agencies, or other Federal agencies to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the General Services Administration in order to collect the debts under the provisions of the Debt Collection Act of 1982, as amended, or the Debt Collection Improvement Act of 1996 by voluntary payment or by administrative or salary offset procedures.

p. A record from this system may be disclosed to the National Archives and Records Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper form in file folders stored in metal filing cabinets and in electronic form in computers.

RETRIEVABILITY:

Credit data is maintained by debtor name and claim number, cross referenced to social security number (when available) to verify name and address.

SAFEGUARDS:

When not in use by personnel responsible for the collection of claims, records and stored in lockable filing cabinets. Personal computer files are protected by the use of passwords.

RETENTION AND DISPOSAL:

The records are a part of the GAO site auditing collection files and are cut off at the end of the fiscal year, held 1 year, and then retired under Record Group 217 (GAO). Records created prior to July 2, 1975, will be retained by GAO for 10 years and 3 months after the period of the account. Records created on or after July 2, 1975, will be retained by GAO for 6 years and 3 months after the period of the account.

SYSTEM MANAGER(S) AND ADDRESS:

Dave Hollar, Chief, Receivables and Collection Management Branch (BCDR), Financial Information Control Division, Office of Chief Financial Officer, General Services Administration, 1800 F Street, NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries by individuals regarding claims pertaining to themselves should be addressed to the system management.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include the individual's name and address.

CONTESTING RECORDS PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR part 105.64.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from commercial credit reports, agency investigative reports, individual debtor's own financial statements, and from other GSA systems of records.

Dated: May 13, 1999.

Daniel K. Cooper,

Director, Administrative Services Division.

[FR Doc. 99–12541 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99101]

Intervention Epidemiologic Research Studies of HIV/AIDS

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to support intervention epidemiologic research studies of AIDS and HIV infection. These awards will help support researchers in two areas: the development and evaluation of innovative interventions for preventing and reducing the transmission of HIV infection in young and recently initiated injection drug users (IDUs); the development and evaluation of an intervention study to improve access to antiretroviral therapy in HIV-infected disadvantaged populations. This program addresses the ''Healthy People 2000'' priority area of HIV infection.

I. Intervention Studies for Young and Recently Initiated Drug Users: The CDC has successfully funded multi-center, HIV epidemiological studies in IDUs for the last six years as part of the Collaborative Injection Drug Users Studies (CIDUS 1 and 2). Through these studies, well over 5,000 participants have been recruited in non-clinic settings or on the street to describe HIV, Hepatitis B and Hepatitis C prevalence, incidence and behaviors related to transmission and acquisition of these infections. The purpose of this program is to support research targeting reduction of sexual and blood-borne infection among IDUs and to continue efforts to describe the HIV, Hepatitis B and Hepatitis C epidemics in these high risk populations.

Specifically, the interest is in HIV studies involving innovative strategies that are culturally appropriate and geographically relevant. It is expected

the studies funded through this announcement should be part of creative HIV risk reduction programs targeting young or recently initiated injection drug users who are street-recruited and not routinely seen in clinics, hospitals, or similar institutional settings.

Intervention study applications are solicited through this announcement that will decrease HIV risk by changing unsafe sexual, needle borne, and injection paraphernalia practices in HIV negative IDUs. Recipients will design and participate in a multi-center, randomized trial addressing questions on the efficacy of HIV risk reduction strategies for young or recently initiated street-recruited IDUs. Proposed interventions should specifically address the following goals:

1. To reduce the risk of blood-borne pathogen infection.
2. To have a sustained effect in reducing unsafe injection behavior.
3. To have a sustained effect in reducing unsafe sex practices.
4. To reduce IDUs' drug injection frequency and assist them in stopping to inject.

Projects should involve community outreach to enroll recently initiated sero-negative drug users for interview, examination, intervention, and follow-up; research should focus on inner-city or suburban areas where drug use among young adults is prevalent and should include strategies to reduce risky behaviors in particularly resistant-to-change individuals. Linkages with community-based organizations and local or state providers of health and social services are highly desirable. Establishing referral services offered through the research project that are sustainable is also highly desirable.

II. Assess and Develop Intervention Studies to Improve Access to Antiretroviral Therapy in HIV-Infected Disadvantaged Populations: The purpose of this program is to solicit applications that identify, enroll, and follow disadvantaged and minority populations with a well-balanced representation of men and women for the purpose of conducting an intervention study of access to antiretroviral therapy (ART). The interest is specifically for three separate research components: a baseline assessment, an intervention component, and a provider survey. The baseline assessment component is intended to determine what factors improve and hamper access to ART in persons recently diagnosed (within 6 to 24 months) with HIV. The intervention component is intended to evaluate methods that increase utilization of HIV care and use of ART. The intervention may involve more individualized patient needs assessment, linkages to new HIV care providers, linkages to integrated, innovative or outreach-oriented health care services. If possible, a separate data collection from local HIV care providers should attempt to identify barriers to providing ART and particularly to providing highly active antiretroviral therapy (HAART). Providers should be asked about conditions under which they would and would not prescribe ART to HIV-infected patients, using a standard questionnaire. Each applicant should propose to do at least two of the components.

Preference will be given to sites (1) where at least 100 HIV-infected subjects can be identified, enrolled, and followed in a well-described intervention to improve access to ART, (2) where subjects that are not already in HIV follow-up care can be identified and recruited, and (3) which have the ability to locate persons diagnosed with HIV in the previous two years at testing centers such as sexually transmitted disease clinics, emergency rooms and other clinics. Follow-up would need to include at least two visits to an HIV care provider and would involve: (1) collecting information on HIV-related clinical conditions, HIV-related medication use, health care provider visits, hospitalizations, and vital status; and (2) collecting blood specimens for viral load testing, lymphocyte immunophenotyping, and storage for other HIV-related testing. Applicants must demonstrate that they can provide adequate rates of follow-up, including collection of laboratory specimens. Applicants should be willing to participate in collaborative studies with other CDC-sponsored HIV projects, including the development of and use of common data collection instruments, specimen collection protocols, and data management procedures. Applicants must demonstrate cost-efficient local data management and statistical capability.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

I. Approximately $2.4 million is available in FY 1999 to fund approximately 4–6 awards for HIV intervention epidemiologic research studies that foster prevention and reduce transmission of HIV infection in young IDUs. It is expected that the average award will be $400,000 ranging from $250,000 to $600,000.

II. Approximately $600,000 is available in FY 1999 to fund approximately 3 awards for HIV intervention studies to improve access to antiretroviral therapy in disadvantaged populations. It is expected that awards will range from $100,000 to $250,000.

It is expected that all awards will begin on or about September 30, 1999, and will be made for a 12-month budget period, within a project period of up to 4 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preference

Preference will be given to achieve geographical diversity (e.g., Northeast, South, Central, and West).

D. Program Requirements

In conducting activities to achieve the purpose of these programs, the recipient will be responsible for the activities listed under Recipient Activities, and CDC will be responsible for conducting activities listed under CDC Activities:

1. Recipient Activities

Applicants addressing the same research issue should be willing to participate in collaborative studies with other CDC-sponsored researchers, including developing and using common data collection instruments, specimen collection protocols, and data management procedures, as determined in post-award grantee planning conferences. Recipients will be required to pool data for analysis and publication. Recipients are also required to work collaboratively as a study group to:

a. Develop the research study protocols and standardized data collection forms across sites.

b. Identify, recruit, obtain informed consent from, and enroll an adequate

number of study participants as determined by the study protocols and the program requirements.

c. Continue to follow study participants as determined by the study protocols.

d. Establish procedures to maintain the rights and confidentiality of all study participants.

e. Perform laboratory tests (when appropriate) and data analysis as determined in the study protocols.

f. Collaborate and share data and specimens (when appropriate) with other collaborators to answer specific research questions.

g. Contribute blood specimens (every 6–12 months, depending on the protocol requirements) for shipment and storage at a centralized repository system at CDC.

h. Conduct data analysis with all collaborators as well as present and publish research findings.

2. CDC Activities

a. Provide technical assistance in the design and conduct of the research.

b. Facilitate and assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Assist in designing a data management system.

d. Assist in performance of selected laboratory tests.

e. Work collaboratively with investigators to help facilitate research activities across sites involved in the same research project.

f. Assist in the analysis of research information and the presentation and publication of research findings.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop your application. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Follow the directions for completing the application that are found in the Public Health Service (PHS) 398 kit. If you are applying for both activities, you must submit a separate application for each.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit. On or before July 16,1999, submit the application to: Kevin Moore, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99101, Centers for Disease Control and Prevention (CDC), Grants Management Branch, Mailstop E–15, 2920 Brandywine Rd., Room 3000, Atlanta, Georgia 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof or timely mailing.

Late Applications: Applications that do not meet these criteria are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. Applicants will be ranked on a scale of 100 maximum points according to the research area identified. All applicants must state which research category they are addressing. Applications must demonstrate the applicant's ability to address the research in a collaborative manner with other recipients. Applications will be reviewed and evaluated based on the evidence submitted, as they specifically describe the applicant's abilities to meet the following criteria:

I. Intervention Studies for Young and Recently Initiated Drug Users

1. Recruitment, Retention and Adherence to Study Protocol (30 Points)

a. Extent of applicant's experience in IDU–HIV infection epidemiologic research.

b. Evidence of ability to successfully recruit and follow IDUs in longitudinal research studies.

c. Ability to organize and provide counseling and voluntary rapid HIV testing program as well as hepatitis B and hepatitis C testing among IDUs with unknown sero status.

d. Evidence of ability to collect complete data and to obtain a sufficiently large blood sample from IDUs.

e. Evidence of ability to collect complete data and to obtain regular blood samples from IDUs for testing that may include: HIV, hepatitis B, hepatitis C testing as well as serum storage.

f. Ability to recruit and retain sufficient HIV uninfected IDUs fulfilling the objectives of the study.

g. Ability to oversee specimen collection for the timely processing, storage, and retrieval of laboratory specimens as needed for the study. This includes transfer of certain specimens to a central repository at CDC and transfer of other specimens to designated laboratories for specific laboratory studies.

2. Description and Justification of Research Plans (30 Points)

a. Extent of familiarity and quality of experience pertinent to proposed research activities.

b. Understanding of the research objectives as evidenced by the high quality and scientific rigor of the proposed plan for research and a study design that is appropriate to answer research questions.

c. Extent to which the applicant demonstrates willingness to work with other recipients to develop a common core research protocol across funded sites.

d. Feasibility of plans to follow study participants. This includes demonstration of the experience of the investigator in following IDUs, and the comprehensiveness of the plan to protect the rights and confidentiality of all participants.

e. Thoroughness of plans for data management, data analysis, and laboratory analysis; reasonableness of data collected; and statistical rigor.

f. Extent to which proposal demonstrates feasible plans for coordinating research activities of multiple study sites, where appropriate. Letters of support from cooperating organizations that demonstrate the nature and extent of such cooperation should be included.

g. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of ethnic and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

3. Research and Intervention Capability (20 Points)

a. Applicant's ability to carry out the proposed research as demonstrated by the training and experience of the proposed research team and organizational setting, including demonstration of ability to collect, manage, and analyze accurate data in a timely manner.

b. Demonstration of working relationships with proposed investigators and extent to which services to be provided by external experts or consultants are documented by memoranda of agreement.

c. Demonstration of epidemiologic, behavioral, clinical, administrative, laboratory, data management and statistical analysis expertise needed to conduct proposed research.

4. Staffing, Facilities and Time-line (20 Points)

a. Availability of qualified and experienced personnel with sufficient time dedicated to the proposed project.

b. Clarity of the described duties and responsibilities of project personnel.

c. Adequacy of plans for project oversight to assure quality of data.

d. Adequacy of facilities, equipment, data management resources, and systems for ensuring data security and patient confidentiality.

e. Adequacy of time line for completion of project activities.

5. Other (Not Scored)

a. Budget: the extent to which it is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized.

b. Human Subjects: Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

II. Assess and Develop Intervention Studies to Improve Access to Antiretroviral Therapy in HIV-Infected Disadvantaged Populations

1. Recruitment, Retention, and Adherence to Study Protocol (20 Points)

a. Extent of applicant's experience in HIV infection epidemiologic research.

b. Evidence of ability to successfully follow HIV-infected persons in longitudinal research studies.

c. Evidence of ability to collect complete data from HIV-infected study participants.

2. Description and Justification of Research Plans (30 Points)

a. Extent of familiarity and quality of experience pertinent to proposed research activities.

b. Understanding of the research objectives as evidenced by high quality of the proposed plan for research and a study design that is appropriate to answer research questions.

c. Originality of research, extent to which it does not replicate past or present research efforts, and direct relevance of research to guiding current efforts to improve access and use of antiretroviral therapy in HIV-infected populations.

d. Feasibility of plans to follow study participants. This includes demonstration of the experience of the investigator in enrolling and following such persons, and the comprehensiveness of the plan to protect the rights and confidentiality of all participants.

e. Thoroughness of plans for data management, data analysis, and laboratory analysis; reasonableness of data collected; and statistical rigor.

f. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) the proposed justification when representation is limited or absent; (c) a statement as to whether the design of the study is adequate to measure differences when warranted; and (d) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

3. Research Capability (30 Points)

a. Capacity to conduct study as evidenced by quality of experience with similar or related research conducted previously, including demonstration of ability to collect, manage, and analyze accurate data in a timely manner.

b. Demonstration of working relationships with proposed investigators and extent to which services to be provided by external experts or consultants are documented by memoranda of agreement.

c. Demonstration of epidemiologic, behavioral, administrative, clinical, laboratory, data management, and statistical expertise needed to conduct proposed research.

4. Staffing, Facilities, and Time-Line (20 Points)

a. Availability of qualified personnel with realistic and sufficient percentage-time commitments, and the clarity of the descriptions of the duties and responsibilities of project personnel.

b. Adequacy of plans for project oversight to assure quality of data.

c. Adequacy of facilities, equipment, data processing and analysis capacity, and systems for management of data security and participant confidentiality.

d. Adequacy of time line for completion of project activities.

5. Other (Not Scored)

a. Budget: The extent to which it is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized.

b. Human Subjects: Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Annual progress reports;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period. Send all reports to the Grants Management Specialist identified in paragraph J. Where to Obtain Additional Information.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–6 Patient Care
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2)of the Public Health Service Act, [42 U.S.C. section 241(a) and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.943.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest (use 99101).

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Kevin Moore, Grants Management Specialist Grants Management Branch, Procurement and Grants Office Announcement 99101, Centers for Disease Control and Prevention (CDC), Grants Management Office Room 3000, ATTN: Colgate Building, 2920 Brandywine Rd., Mailstop E–15, Atlanta, GA 30341, telephone (770) 488–2737, Email address kgm1@cdc.gov.

For program technical assistance, contact: Jeff Efird, MPA, Deputy Chief, Epidemiology Branch, Division of HIV/AIDS Prevention Surveillance and Epidemiology, National Center for HIV, STD, TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–45, Atlanta, Georgia 30333, Telephone (404) 639–6130, E-mail jle1@cdc.gov.

For a detailed description of the additional requirements in Attachment 1, to download forms required by this announcement, and to review other CDC program announcements, see the CDC home page on the Internet: HTTP://www.cdc.gov. Eligible applicants are encouraged to call before developing and submitting their applications.

Dated: May 14, 1999.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–12695 Filed 5–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention and Health Resources and Services Administration

[Program Announcement 99099]

CDC/HRSA Cooperative Agreements for HIV/AIDS Intervention, Prevention, and Continuity of Care Demonstration Projects for Incarcerated Individuals Within Correctional Settings and the Community; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) announce the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for HIV (Human Immunodeficiency Virus) Prevention, Intervention, and Continuity of Care Within Correctional Settings and the Community. This program addresses the ''Healthy People 2000'' priority areas of HIV Infection and Clinical Preventive Services. The purpose of the program is to support demonstration projects within correctional facilities and the community that develop models of comprehensive surveillance, prevention, and health care activities for HIV, Sexually Transmitted Diseases (STDs), Tuberculosis (TB), Substance Abuse and Hepatitis. It is targeted for persons in correctional settings that extend to the community upon their release. This includes jails, detention centers, prisons, and transitional halfway houses. The target population includes African Americans and other ethnic/racial minorities that are disproportionately affected by the HIV/AIDS epidemic and detained/incarcerated in the criminal justice system, especially jails and juvenile detention facilities. Projects may develop collaborative arrangements between correctional settings and community-based health care and support service providers that address continuity of health care and provision of other ancillary and supportive services upon release that contribute to positive behavior change, and increase health care access, and improve health status. A background concept paper and descriptions of prevention, primary care, and continuity of services are included in the application kit.

This initiative is co-funded under Special Projects of National Significance (SPNS) authority of the Ryan White CARE Act. SPNS grants advance knowledge and skills in the delivery of health and support services to under served populations diagnosed with HIV infection. SPNS is the research and development arm of the Ryan White CARE Act. The authorizing legislation specifies three SPNS Program objectives: (1) To assess the effectiveness of particular models of care; (2) to support innovative program design; and (3) to promote replication of effective models.

Projects should be innovative in creating a combination of services/activities (surveillance, medical and behavioral screening and assessment, prevention education and counseling, primary health care and referral linkages) and have the organizational capacity to work within correctional settings and to organize and maintain a network of these services for the individual within the larger community. Because jails and juvenile detention facilities most reflect the community, special prioritization should be given to working in these settings. It is desirable to have a multi-tiered focus (including jails, prisons, juvenile detention centers, and transitional halfway houses) on the provision of a variety of direct services, the ability to organizationally and structurally work within correctional and community-based systems of care, and the potential ability to implement long-term systemic change. Applicants should recognize that this demonstration is not designed and cannot be expected to provide support beyond the project period.

B. Eligible Applicants

Assistance will be provided only to the following geographic areas: California, Connecticut, the District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, New Jersey, New York State, Pennsylvania, and Texas. These States are designated priority areas based on three criteria: (1) They represent 56.2 percent (635,483) of total prison population for 1997; (2) represent 74.7 percent (76,679) of all African American AIDS cases for 1997; and (3) represent 19,361 or 82.7 percent of all HIV+ inmates in state prisons. These states also represent 26 of the 30 highly affected MSAs for African Americans.

For states in which there is a CDC directly-funded city (these cities are New York, Chicago, Los Angeles, San Francisco, Houston and Philadelphia) the application must come from a coalition of the state and directly-funded city health department(s) (to ensure continuity of care, as most inmates come from and return to these larger metropolitan areas). Either the

state or directly funded city health department (or its bona fide agent) may submit the application but only one application each from California, Illinois, New York, Pennsylvania and Texas may be submitted. Proof of a formal collaborative agreement between state and city is required in the application from these jurisdictions.

For Connecticut, District of Columbia, Florida, Georgia, Maryland, Massachusetts and New Jersey, only the State health department or its bona agent may submit an application.

C. Availability of Funds

Approximately $7,000,000 is available in FY 1999 to fund five to eight awards. It is expected that the average award will be $1,000,000 ranging from $450,000 to $1,300,000, including direct and indirect costs. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of three years. Funding estimates may change.

Due to inequities between corrections-based care and community care, at least 40 percent of the funds provided under these awards must be directed to community-based prevention and primary health care and other ancillary service providers to support and develop models of linked networks of health services including HIV/AIDS, STDs, TB, hepatitis and substance abuse prevention and treatment during and after incarceration.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

You may request Federal personnel as direct assistance, in lieu of a portion of financial assistance.

Use of Funds

These funds may not be used to supplant or duplicate existing funding. Activities should build upon the existing infrastructure of CDC-supported HIV Prevention Services providers and HRSA-supported Ryan White Comprehensive AIDS Resources Emergency (CARE) Act funded primary health care providers, or community health centers and other medical providers or services that treat individuals incarcerated in correctional facilities or who treat recently-released individuals. Activities should be coordinated with SAMHSA supported drug treatment and prevention programs. Recipients may contract with other organizations under these cooperative agreements, however, recipients must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested. Applications requesting funds to support only administrative and managerial functions will not be accepted. CARE Act funds are considered payor of last resort and cannot be used to supplant services supported within correctional systems.

Funding Preference

In making awards, preference will be given to those projects that propose to improve access to prevention and primary health care and the health status of African Americans and other racial or ethnic minorities during incarceration and upon their release. Projects should: (1) document the burden of disease for this population; (2) increase access to HIV/AIDS primary health care and prevention services; (3) improve HIV transitional services between corrections and the community; and, (4) develop linked networks of HIV, STD, TB, and substance abuse health and social services for soon to be or recently released African Americans and other racial or ethnic minorities.

Priority will be give to geographic distribution across the eligible areas and racial/ethnic groups consistent with HIV/AIDS morbidity. Public comments are not being solicited because time is insufficient for solicitation and review of comments before the funding date.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under recipient activities, and CDC and HRSA will be responsible for activities under CDC and HRSA activities.

1. Recipient Activities: For the target population of incarcerated or soon to be released/recently released incarcerated persons the recipient will:

a. Use epidemiologic data, needs assessments, and prioritization of groups and interventions to design program activities (corrections and community-based) for African American and other disproportionately affected racial/ethnic minorities at high risk for HIV.

b. Review and ensure consistency of proposed activities with applicable State and local comprehensive HIV Prevention and Ryan White CARE Act plans.

c. Coordinate program activities with relevant national, regional, State, and local HIV prevention programs to prevent duplication of efforts.

d. Monitor and evaluate all major program activities and services supported with funds under this cooperative agreement.

e. Develop a proposal for obtaining additional resources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the project period.

f. Conduct HIV counseling, testing and referral services and health education and risk reduction interventions for persons at high risk of becoming infected or transmitting HIV to others.

g. Assist high risk clients in gaining access to HIV antibody counseling, testing, and referral for other needed services and primary care.

h. Assist HIV positive persons in gaining access to appropriate HIV treatment and other early medical care, substance abuse prevention services, STD screening and treatment, reproductive and perinatal health, partner counseling, notification and referral services, psycho-social support, mental health services, TB prevention and treatment, health education and risk reduction services, and other supportive services. High risk clients who test negative should be referred to appropriate health education and risk reduction services and other appropriate prevention and treatment services.

i. Support a continuum of care between corrections and the community in which all the needs of individuals with HIV disease and their families are coordinated. A comprehensive continuum of care includes: primary health care (including treatment of HIV infection consistent with Public Health Service guidelines [i.e., treatment of HIV infection in the following areas: adults and adolescents, pediatrics, maternal health and reduction of perinatal HIV transmission, prophylaxis and treatment of opportunistic infections], access to drug therapies including opportunistic infections prophylaxis/treatment and combination antiretroviral therapies, substance abuse treatment, mental health, dental, and hospice services); supportive services that enable individuals to access and remain in primary care; and other health or supportive services that promote health and enhance quality of life.

j. Ensure (at a minimum) that all primary health care is consistent with published United State Public Health Services treatment guidelines (See appendix).

k. Coordinate and collaborate with departments of corrections (prisons, jails, detention and pre-release facilities), community planning groups,

community-based organizations and entities or agencies involved in HIV prevention and care activities, especially those serving the target population.

l. Participate in a formative evaluation with the CDC/HRSA Program Support and Evaluation Center (to be selected for this project) in monitoring and evaluating all major program activities and services supported with CDC/HRSA HIV prevention and care funds under this cooperative agreement.

m. Actively collaborate with CDC/HRSA Program Support and Evaluation technical assistance providers/consultants to assure the definition of and measurement of appropriate project outcome measure. During the initial project year, recipients will meet with other recipients to develop a collaborative data collection plan and agree on data collection instruments.

n. Work in collaboration with the HRSA/CDC Evaluation Center to produce a series of formative evaluations that describe the program components that are critical to health seeking behaviors among previously incarcerated individuals, the costs associated with program interventions in and outside correctional settings, and lessons learned. Projects will provide basic data analyses and the supporting databases in the required CDC/HRSA-format.

2. CDC and HRSA Activities:

a. Provide consultation and technical assistance in planning, implementing, and evaluating prevention, treatment, and care activities. CDC and HRSA will provide consultation and technical assistance both directly and indirectly through prevention and primary care partners such as health departments, community health centers, drug treatment programs, hospitals and other providers of primary care, drug assistance programs, national and regional African American and other ethnic/minority organizations, criminal justice and corrections agencies and organizations (American Corrections Association, National Commission on Correctional Health Care, National Institute of Justice, Federal Bureau Of Prisons), and other national organizations.

b. Provide up-to-date scientific information on the risk factors for HIV infection, prevention measures, treatment protocols and program strategies for prevention, treatment, and prevention case management for HIV infection.

c. Assist in the design and implementation of program evaluation activities.

d. Assist recipients in collaborating with community planning groups, community health centers, community-based organizations, primary care and substance abuse programs, state and local correctional facilities, and other federally supported HIV/AIDS prevention and care recipients.

e. Facilitate the transfer of successful interventions, models of care, community linkages, and ''lessons learned'' through convening meetings of recipients, workshops, conferences, newsletters, and communications with project officers.

f. Facilitate exchange of program information and technical assistance between community organizations, health departments, primary care and Ryan White Care Providers, State and local criminal justice and corrections facilities and national and regional organizations.

g. Conduct an overall evaluation of this cooperative agreement program. A CDC/HRSA Evaluation will provide program assistance and support for overall evaluation coordination and assistance, including data management and analysis, training of recipient staff in evaluation procedures and distribution of necessary materials to all projects (See application kit for outline of CDC/HRSA Evaluation and Program Support Center Activities).

h. Compile and facilitate ''lessons learned'' from the project and facilitate the dissemination of ''lessons learned,'' successful prevention interventions, and program models to other organizations and CDC through peer to peer interactions, meetings, workshops, conferences, and communications with project officers.

E. Application Content

You must document that this proposal is consistent with the Statewide Coordinated Statement of Need document from your area or provide a rationale for any discrepancies. Note: This initiative is supported, in part from funds provided under the Special Projects of National Significance Program of the Ryan White Comprehensive AIDS Resource Emergency Act. Section 2691 (f) indicates that the Secretary may not make a grant under this program ''unless the applicant submits evidence that the proposed program is consistent with the Statewide Coordinated Statement of Need, and the applicant agrees to participate in the ongoing revision process of such statement of need.''

Your application should build upon the current HIV prevention and CARE community planning priorities for at risk and infected incarcerated individuals (pre-release and post-release). Proposed activities should include CARE-funded primary health care providers and community health centers and other medical providers of services that treat individuals incarcerated in correctional facilities or who treat individuals who were previously incarcerated.

Note: Entities should already have some degree of activities in place that link correctional settings to community-based providers for specific services. These proposals should further develop the comprehensiveness of surveillance, prevention, and primary health care services provided. In addition, attention should be given to the organizational capacity required to provide for continuity in intervention, primary care, prevention, and psycho-social support and referral systems and linking correctional and community settings to improve the health seeking behaviors of populations and individuals most affected by HIV/AIDS.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 35 double-spaced pages, printed on one side, with one inch margins, and unreduced 12 point font on 8½″ by 11″ paper, with at least 1″ margins, headings and footers, and printed on one side only. Number each page clearly and provide a complete index to the application and its appendices. Please begin each separate section of the application on a new page. Submit the original and each copy of the application set unstapled and unbound. Materials that should be part of the basic plan will not be accepted if placed in the appendices.

In developing the application, follow the format and instructions below:

Format

1. Abstract
2. Assessment of Need and Justification for Proposed Activities
3. Long Term Goals
4. Program Plan
5. Evaluation Plan
6. Budget and Staffing Breakdown and Justification
7. Training and Technical Assistance Plan
8. Attachments

Instructions

1. Abstract (not to exceed 2 pages): summarize your proposed program activities. Include the following:

a. Brief summary of the need for the proposed activities;

b. Long-term goals;

c. Brief summary stating compliance with HIV Prevention and Ryan White CARE Act plans;

d. Brief summary of proposed plan of operation, including the populations to be served, activities undertaken, and services to be provided;

e. Brief summary of plans for collaboration and linkage development for continuity of care between corrections and the community; and

f. Brief summary of year two and three activities.

2. Assessment of Need and Justification for Proposed Activities (not to exceed 6 pages).

a. Describe the incarcerated populations and the communities for which your proposed program will provide services;

b. Describe the targeted correctional system, including the type of facility (jail, prison, detention, pre-release, halfway house, or after care program), the geographic area covered, the number of incarcerated individuals known or estimated to be HIV-infected and current role of the corrections systems in HIV prevention and care;

c. Identify the need that will be addressed by your proposed program and describe how you assessed the need. Include epidemiologic and behavioral risk factor assessments or other data that were used to identify the need. Include a description of existing HIV prevention, risk-reduction, and primary care and psycho-social, and referral services provided by other organizations to address the needs of the target populations, continuity of care, and an analysis of the gap between the identified need and the resources currently available to address the needs (i.e., how will the proposed activities or program address important unmet HIV prevention and care needs and improve access to on-going HIV medical care and support services?);

d. Describe the impact of the AIDS epidemic on the priority target population and their community and any specific environmental, social, cultural, or linguistic characteristics of the priority target populations which you have considered and addressed in developing your continuity of care strategies, such as:

(1) HIV prevalence and incidence (if available), reported AIDS cases, and risk behaviors (sexual behaviors, substance use, etc.) in the target population.

(2) HIV/AIDS-related baseline knowledge, attitudes, beliefs, and behaviors.

(3) Patterns of substance use and rates of STDs and tuberculosis (TB), hepatitis.

(4) Other relevant information. (Specify)

e. Describe the specific behaviors, practices, and health outcomes that the proposed intervention or primary care/services are designed to promote and prevent (e.g., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other treatment and preventive programs);

f. Describe how your proposed program complements the HIV prevention and care priorities identified in the applicable State or local comprehensive HIV prevention and Ryan White CARE Act plans; and

g. Describe any specific barriers to the implementation of your proposed program and how you will overcome these barriers.

3. Long-term Goals (not to exceed 1 page): Describe the broad HIV prevention and care goals that your program aims to achieve by the end of the project period (three years). Indicate which are prevention goals and which are primary care goals.

4. Program Plan (not to exceed 12 pages): Use this section to describe your proposed program.

a. Involvement of the target population: Describe the involvement of the incarcerated population, correctional systems, community-based care providers, and the community in planning, implementing, and evaluating activities and services throughout the project period;

b. Program Objectives: Develop objectives that are specific, measurable, time-phased, realistic, related to the long-term goals and proposed activities, and if applicable, related to the prevention and care priorities outlined in the jurisdiction's comprehensive HIV prevention and Ryan White CARE Act plans. Describe the expected results of program activities on its priority populations. Describe any anticipated barriers to or facilitators for reaching these objectives;

c. Plan of Operation:

(1) Describe the specific activities to be conducted to accomplish the objectives.

(2) Describe the services to be provided to accomplish the objectives.

(3) Specify the approximate dates when activities will be accomplished and which staff will be responsible for conducting activities.

(4) Describe the opportunity for volunteer involvement in your program. If volunteers will be involved, describe plans to recruit, train, place, and retain volunteers.

(5) Describe how you will collaborate and develop a linked network of services with correctional facilities, local health departments, community health centers, primary care providers, pharmaceutical, substance abuse treatment, mental health, HIV and Ryan White planning groups, members of the target population, and other appropriate service groups or organizations in the development and implementation of your program.

(6) Describe your mechanism for recruiting and including program participants.

(7) Describe how you will promote your program in the community.

(8) Describe the mechanism to assure client satisfaction.

(9) Provide the following attachments: (a) a list of major community resources and health care providers to which referrals will be made, and any existing or proposed interagency agreements; (b) a plan for ongoing training to ensure that staff are knowledgeable about HIV/AIDS, STDs, hepatitis, TB, and other relevant health issues or risks (e.g., reproductive health, substance abuse) and prevention and care measures; (c) a plan to assess the performance of staff to ensure that they are providing information and services accurately and effectively; (d) a mechanism to initiate and verify referrals; and (e) protocols to guide and document training, activities, services, care, and referrals.

(10) Describe how you will prioritize the program activities to place emphasis on populations within correctional settings and within communities that are disproportionately affected by HIV and AIDS.

(11) Identify program staff responsible for conducting the proposed activities.

d. Appropriateness of interventions and care:

(1) Describe how the proposed priority interventions and care services are culturally tailored, sensitive to issues of sexual identity, developmentally- and educationally-appropriate, and linguistically-specific.

(2) Describe the specific behaviors, practices, and health outcomes that the interventions and care services are designed to promote and prevent (e.g., medication compliance, enrollment in early intervention and care, increases in correct and consistent condom use, knowledge of serological status, not sharing needles, enrollment in drug treatment and other preventive programs).

e. Coordination/Collaboration: Describe current, relevant collaborative efforts and service agreements within

the program's catchment area, especially with other HRSA, CDC, HUD, and SAMHSA funded service providers. Specify the organizations and agencies with which you will establish contractual agreements or qualified service organization agreements, and service linkages in the development and implementation of your project. If applicable attach copies of any agreements already in place in the Appendix.

f. Time line: Provide a time line that indicates the approximate date by which activities will be accomplished.

5. Program Evaluation Plan: CDC and HRSA project officers and the CDC/HRSA Program Support and Evaluation Center will collaborate with the recipient in the development of an evaluation plan after the award.

Submission of a proposal signals the applicant's willingness to participate in multi-site evaluations with the other funded projects. Applicants must determine and document that their organization has the interest and can organize the human resources necessary (either from within the organization, through hiring an external evaluation consultant, or through a contract with a university-based researcher) to produce a thorough evaluation; and must include a plan assuring that their client population will participate in the data collection process. Applicants must also indicate how they will participate with the CDC and HRSA, the Evaluation Center, and other recipients in the dissemination of their findings for use by other HIV care providers.

Project evaluations should measure project outcomes including health outcomes, where applicable. Evaluation questions should consider the following: organizational infrastructure development issues in integrating services; service demands over time; migration patterns of the population studied; enrollment rates; retention in program; client and provider satisfaction; client and provider participation in the program; client participation in treatment regimens; number of referrals and completed referrals; factors causing client dropout or loss to the project's continuum of care; numbers and types of services delivered; configurations of medical and prevention services that increase access; specific activities and related costs required to ensure use of needed medical and supportive services; issues of maintaining confidentiality over time in an integrated system; and barriers to obtaining medical records information in an integrated care system. It is anticipated that evaluations will include both quantitative and qualitative analysis.

a. Evaluation Rationale: Document the questions that should be answered by the project's evaluation and propose specific indicators and measures that could be used to answer process and outcome questions for integrated service delivery systems or provider sites.

b. Evaluation Plan: Outline some of the methods that might be used to gather data on the indicators listed above and how these methods might be implemented. Describe which staff or contractors will be responsible for the design, implementation, and completion for the proposed evaluation and of the resources available and needed within the organization to conduct internal evaluations, as well as being able to participate in multi-site evaluations.

6. Budget/Staffing Breakdown and Justification:

a. Detailed Budget: Provide a detailed budget for activities proposed, with accompanying justification of all operating expenses, that is consistent with the stated objectives and planned priority activities. CDC/HRSA may not fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate. In the personnel section, specify the job title, annual salary/rate of pay, and percentage of time spent on this program.

For contracts, name the contractor, if known; describe the services to be performed which justifies the use of a contractor; provide a breakdown of and justification for the estimated costs of the contracts; the period of performance; the method of selection; and method of monitoring the contract.

b. Staffing Plan: Provide a job description for each position for this program that specifies job title, function, general duties, activities, and salary range. Include the level of effort and allocation of time for each project activity by staff positions. If the identity of any key personnel who will fill a position is known, her/his name and resume should be attached. Experience and training related to the proposed project should be noted. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project, provide job descriptions.

c. Direct Assistance: To request new direct-assistance assignees, include:

(1) Number of assignees requested.

(2) Description of the position and proposed duties.

(3) Ability or inability to hire locally with financial assistance.

(4) Justification for request.

(5) Organizational chart and name of intended supervisor.

(6) Opportunities for training, education, and work experiences for assignees.

(7) Description of assignee's access to computer equipment for communication with CDC (e.g., personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

7. Training and Technical Assistance Plan (not to exceed 2 pages): Describe areas in which you anticipate needing technical assistance in designing, implementing, and evaluating your program. Also, describe anticipated staff training needs related to the proposed program and how these needs will be met. This information will assist CDC/HRSA to better address your needs and help you to identify technical assistance and training providers.

8. Attachments—Provide the following as attachments:

a. An assurance that the funds being requested will not duplicate or supplant funds received from any other Federal or non-Federal source. CDC/HRSA awarded funds can be used to expand or enhance services supported with other Federal or non-Federal funds.

Note: Materials submitted as attachments should be printed on one side of 8½ x 11 paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½ x 11 paper. Bound materials may not be reviewed.

F. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937–0189). Forms are in the application kit.

On or before July 16, 1999, submit the application to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Attn: Announcement 99099, Centers for Disease Control and Prevention, 2920 Brandywine Street, Room 3000, Mailstop E–15, Atlanta, Georgia 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are either received on or before the deadline date or sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) Applications that do not meet these criteria will not

be considered and will be returned to the applicant.

G. Application Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Assessment of Need and Justification for the Proposed Activities (20 points).

The extent to which the applicant documents a substantial need for the proposed program and activities.

2. Long Term Goals (20 points).

The quality of the applicant's stated goals and the extent to which they are consistent with the purpose of this cooperative agreement, as described in this program announcement.

3. Program Plan (60 total points).

a. Involvement of the target population (10 points): The degree to which the applicant describes the involvement of the target population in planning, implementing, and evaluating activities and services throughout the project period. Are plans to include both sexes and minorities and their subgroups adequately developed (as appropriate for the scientific goals of the project)?

b. Program Objectives (10 points): Degree to which the proposed objectives are specific, measurable, time-phased, related to the proposed activities, and consistent with the program's long-term goals; the extent to which the applicant identifies possible barriers to or facilitators for reaching these objectives.

c. Plan of Operation (10 points): The quality of the applicant's plan for conducting program activities, the assurance of an integrated approach, and the potential effectiveness of the proposed activities in meeting objectives.

d. Appropriateness of Interventions and Care (10 points): The degree to which the applicant describes how the proposed priority interventions and services are culturally tailored, sensitive to issues of sexual identity, developmentally appropriate, linguistically-specific, and educationally appropriate; and the degree to which the applicant describes the specific behaviors, practices, and health outcomes that the interventions and care are designed to promote and prevent (i.e., medication compliance, enrollment in early intervention programs, increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs).

e. Coordination/Collaboration (5 points): Appropriateness of collaboration and coordination with other organizations serving the same priority populations. At minimum, the applicant provides a description of the collaboration and a signed memoranda of agreement for each agency with which collaborative activities are proposed, and other evidence of collaboration that describes previous, current, as well as future areas of collaboration.

f. Description of Evaluation Plan (5 Points): Thoroughness, feasibility and appropriateness of the project's evaluation design from a methodological and statistical perspective. The process and outcome objectives to be studied. Process outcomes that evaluate the success of the model being implemented. Outcome measures that center upon participation prevention activities, primary health care, and where applicable, client health, and client satisfaction.

g. Time line (5 points): The extent to which the applicant's proposed time line is specific and realistic.

h. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research (5 points). This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

4. Budget/Staffing Breakdown and Justification (not scored).

Personnel: Appropriateness of the staffing pattern for the proposed project.

Budget: Appropriateness of the budget for the proposed project.

5. Training and Technical Assistance Plan (not scored): The extent to which the applicant describes areas in which technical assistance is anticipated in designing, implementing, and evaluating the proposed program. The extent to which the applicant describes anticipated staff training needs related to the proposed program and how these needs will be met.

6. Does the application adequately address the requirements of title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Sheri Disler, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd., Room 3000, Mail Stop E–15, Atlanta, GA 30341–4146, Telephone (770) 488–2756.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–6 Patient Care
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 317(k), of the Public Health Service Act [42 U.S.C. 241 and 247b(k)], as amended. The HRSA Special Projects of National Significance (SPNS) program is authorized by Section 2691 of the Public Health Service Act (42 U.S.C.300ff–10). The Catalog of Federal Domestic Assistance number is 93.941.

J. Where To Obtain Additional Information

Please refer to Program Announcement 99099 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Kevin Moore or Sheri Disler, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office,

Announcement 99099, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Mail Stop E–15, Atlanta, GA 30341, Telephone (770) 488–2720, Email address: kgm1@cdc.gov or sjd9@cdc.gov

A full application package is also available on the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance, contact John Miles at (404) 639–8025 or jrm2@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

Dated: May 14, 1999.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–12694 Filed 5–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99144]

Cooperative Agreements for Non-Governmental Organization (NGO) Partnerships Pilot Project; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) and the United States Agency for International Development (USAID) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for Non-Governmental Organization (NGO) Partnerships Pilot Projects. This program addresses the ''Healthy People 2000'' priority areas of Educational and Community-Based Programs, HIV Infection, and Sexually Transmitted Diseases. The purpose of this program is to facilitate the exchange of information through partnerships between U.S. domestic NGOs and NGOs in developing countries where CDC and USAID provide support for HIV/AIDS activities. Mutual learning can have significant benefits for both the international and U.S. domestic response to HIV/AIDS. The goal of the pilot project is to gather experiential data regarding the most efficient and valuable avenues for fostering sustainable linkages between developing world NGOs and U.S. domestic NGOs, with improved capacity to deliver HIV/AIDS information and prevention services as the ultimate result. Lessons learned and assistance will be exchanged between the U.S. NGOs and the developing world NGOs along lines of affinity, such as language/culture, risk behaviors, and population groups. United States NGOs are especially well equipped to provide this technical assistance since they have been active in HIV/AIDS activities for more than a decade.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit NGOs; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Acceptable evidence of nonprofit status, Internal Revenue Service (IRS) 501(c)3, is a copy of a currently valid IRS tax exemption determination letter; national organizations must also submit a statement signed by the parent organization indicating that the applicant is a local nonprofit affiliate and is authorized to apply for funds. Proof of nonprofit status must be provided with the application. No application will be accepted without proof of nonprofit status.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $230,000 is available in FY 1999 to fund approximately 2–3 awards. It is expected that the average award will be $80,000, ranging from $50,000 to $120,000. It is expected that the awards will begin on or about September 1, 1999, and will be made for a 12-month budget period within a project period of up to 2 years. Funding estimates may change based on the following: availability of funds; scope and quality of applications received; appropriateness and reasonableness of budget request; proposed use of project funds; and extent to which the applicant is contributing its own resources to HIV/AIDS prevention activities.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. Satisfactory progress will be determined by site visits by CDC representatives, progress reports, and the quality plans.

Use of Funds

Funds available under this announcement must support activities directly related to primary HIV prevention. However, intervention activities that involve preventing other STDs or substance abuse as a means of reducing or eliminating the risk of HIV infection may also be supported. No funds will be provided for direct patient medical care (including substance abuse treatment and medical prophylaxis or drugs).

These funds may not be used to supplant or duplicate existing funding. Contracts with other organizations are allowable under these cooperative agreements. However, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested.

Before using funds awarded through this cooperative agreement to develop HIV prevention materials, recipients must enquire with the CDC National Prevention Information Network (1–800–458–5231) to determine if suitable materials are already available. Also, materials developed by recipients must be made available for dissemination through the CDC National Prevention Information Network.

D. Program Requirements

Potential activities to strengthen and sustain linkages among the collaborating partners may include:

1. Operations research: training and technical assistance support on how to use operations research to improve the delivery of primary prevention services or assess the effectiveness of interventions. Additional activities may include the development of interventions based on research results;

2. Network development: training and assistance in the development and strengthening of a formal network of NGOs to address the primary prevention needs of one of the priority populations identified above (e.g., youth, women, and men who have sex with men, IDUs). The partnering activity should be designed to facilitate collaboration, networking and information exchange among NGOs, government and donor agencies;

3. Institutional development: management strengthening activities to enhance performance. This may include the design and implementation of management training workshops on strategic planning, change management, time management, and project management. Other activities many include volunteer motivation, performance management (staff appraisal, development and improvement of work environment),

impact measurement, fund-raising and income generation; and

4. Educational materials development: assessment and design of materials that are suitable for various population groups and risk behaviors.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under Recipient Activities, and CDC will be responsible for activities listed under CDC Activities.

1. Recipient Activities

a. Use epidemiological data, needs assessments, and prioritization of groups and interventions to design program activities and place emphasis on communities at high risk for HIV infection;

b. Incorporate cultural competency and linguistic appropriateness into all capacity and skills building efforts, including those involving the development, production, dissemination, and marketing of health communication or prevention messages;

c. Coordinate program activities with relevant counterpart foreign national and regional HIV prevention programs to prevent duplication of efforts;

d. Facilitate the dissemination of successful prevention interventions and program models through meetings, workshops, conferences, and other communications;

e. Broaden the linkages with counterpart communities in other developing countries;

f. Compile ''lessons learned'' from the project and share these with network organizations and CDC; and

g. Develop and implement a plan for obtaining additional resources from non-CDC sources to supplement the program conducted through this cooperative agreement and to enhance the likelihood of its continuation after the end of the pilot project period.

2. CDC Activities

a. Provide consultation and technical assistance in planning, operating, and evaluating prevention activities;

b. Provide up-to-date scientific information on risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection;

c. Assist in the evaluation of program activities and services;

d. Facilitate the transfer of successful prevention interventions and program models to other areas; and

e. Monitor the recipient's performance of program activities, protection of client confidentiality and compliance with other requirements.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 45 double-spaced pages, printed on one side, with one inch margins, and unreduced 12 CPI font. Number each page clearly, and provide a complete index to the application and its appendices. Please begin each separate section of the application on a new page. Submit the original and each copy of the application set unstapled and unbound. Materials that should be part of the basic plan will not be accepted if placed in the appendices.

In developing the application, follow the format and instructions below:

Format

1. Abstract
2. Organizational History and Capacity
3. Description of Target Population and Needs

Assessment

4. Program Plan
5. Evaluation Plan
6. Communications and Dissemination Plan
7. Plan for Sustaining Linkages
8. Personnel
9. Budget
10. Attachments

Instructions

1. Abstract (not to exceed 2 pages): Briefly summarize your proposed program activities and include the following:

a. The need for the proposed activities;

b. Proposed plan of operation, including the populations to be served, activities to be undertaken, and services to be provided;

c. Plans for evaluating the activities of this project;

d. Future year activities; and

e. Brief description of the applicant organization and its ''linkage'' partner/developing country counterpart.

2. Organizational History and Capacity (not to exceed 5 pages):

a. Describe your existing organizational structure, including constituent or affiliate organizations or networks, how the organizational structure will support the proposed program activities, and how the structure offers the capacity to reach targeted populations.

b. Describe your past and current experience in developing and implementing effective HIV prevention strategies and activities, and in developing and implementing programs similar to the one proposed in this application.

c. Describe your capacity to provide culturally competent and appropriate services that respond effectively to the cultural, gender, environmental, social, and multilingual character of the target populations, including any history of providing such services.

d. Describe your experience in collaborating with international and developing country organizations that provide HIV prevention services.

e. Describe your experience in collaborating with government agencies of a developing country, e.g., Ministry of Health, Ministry of Education.

3. Description of Target Population and Needs Assessment (not to exceed 6 pages):

a. Target Population: Describe the target populations to be served through the proposed program, including the approximate number of persons to be reached. Describe the impact of HIV/AIDS on the community and any other specific environmental, social, cultural, or multilingual characteristics of the target populations that the program will consider and address in developing prevention strategies.

b. Needs Assessment: List and briefly describe current HIV prevention and risk-reduction efforts under way among the target populations and outline major gaps in the provision of prevention services for the target populations.

(1) Explain any specific barriers to the dissemination of adequate HIV prevention information and education that exist or have existed;

(2) Explain the unmet HIV prevention needs in the target community and opportunities for creating linkages with U.S. based NGOs;

(3) Identify and describe the HIV prevention needs of the target populations that the proposed program will directly address.

4. Program Plan (not to exceed 10 pages): Describe your proposed program in an organized, concise manner. Funds available under this program must be targeted to support activities directly related to primary HIV prevention; however, intervention activities that involve preventing other STDs and substance abuse as a means of reducing or eliminating the risk of HIV infection may be supported. You may wish to describe the conceptual basis for interventions and program activities. Your program plan should describe and explain:

a. The specific behaviors and practices that the interventions are

designed to promote and prevent (e.g., increases in correct and consistent condom use, knowledge of serological status, not sharing needles, and enrollment in drug treatment and other preventive programs).

b. The involvement of the target population in planning, implementing, and evaluating activities and services throughout the project period.

c. How the proposed priority interventions and services are culturally competent, sensitive to issues of sexual identity, developmentally appropriate, linguistically-specific, and educationally appropriate.

In addition, the program plan should include:

a. Project objectives: Provide specific, realistic, time-phased and measurable objectives to be accomplished during the first budget period. Describe the expected outcomes of program activities on its target populations.

b. Plan of operation: Describe the activities that will be undertaken and specific interventions that will be provided to meet the objectives within projected time frames during the first program year. Outline the major steps necessary to attain specified objectives and note the approximate dates by which activities will be accomplished. Note all major activities that will represent necessary milestones in the attainment of objectives. Describe, where possible, how you will obtain participation and input into the program by appropriate service groups or organizations, how collaborative relationships with other agencies and organizations will be established and maintained, and the extent to which members of the target population will be involved in project planning and implementation. Include, as attachments, memoranda of understanding or agreement as evidence of these established or agreed upon collaborative relationships. Include a description of how the proposed program fills gaps left by existing programs as determined by the needs assessment.

c. Memorandum of Agreement between the applicant and the ''linkage'' partner/developing country counterpart. The memorandum of agreement should include the following:

(1) Statement of agreement to collaborate and for what purpose (what are the goals of the collaboration effort?). Provide full name, address, and a description of each collaborating agency.

(2) Statement of services or goods each collaborating agency is willing to provide or exchange.

(3) Statement of how services and goods will be provided or exchanged.

(4) Statement of responsibilities related to confidentiality.

(5) Statement of responsibilities related to documentation and reporting expected from each agency.

(6) Statement of how the MOA content (collaboration agreement) will be reviewed, evaluated and updated, if necessary.

(7) Statement defining the length of the agreement (start and termination clause).

(8) Statement clarifying the date of the agreement and signatures of agency personnel authorized to commit collaborating agencies to provide services and share resources.

Collaborating agencies may want to include a statement of indemnity. For instance, no element of this agreement will be construed to imply any form of financial obligation or liability, nor to confer on one party the capacity to represent or act as an agent of the other.

d. Letter of Concurrence from the USAID Mission in the selected host country. The letter should state that the USAID Mission has reviewed the proposed activities and concurs with the request to conduct the proposed activities. The letter should also indicate how the proposed effort will contribute to the results framework of the USAID Health Sector in the selected host country and that the activity is consistent with the overall HIV/AIDS prevention efforts of the Ministry of Health.

5. Plan of Evaluation (not to exceed six pages): How project activities will be evaluated (i.e., a plan that will help determine if the methods used to deliver these services are effective and the objectives are being achieved). Clearly identify specific methods you will use to measure progress toward attaining objectives and monitoring activities during the first year of the program. Describe how that information will be obtained, including a description of methods that will be implemented to gather and record data, and in what manner it will be summarized for Quarterly Progress Reports. Describe how data will be used to improve the program and how successful approaches and ''lessons learned'' will be shared with other organizations.

6. Communications and Dissemination Plan: (not to exceed 2 pages).

7. Plan for Sustaining Linkages: (not to exceed 2 pages).

8. Personnel: Describe how the proposed program will be managed and staffed, including the location of the program within your organization. Describe in detail each existing or proposed position for this program by job title, function, general duties, and activities with which that position will be involved. Include the level of effort and allocation of time for each project activity by staff position. If the identity of any individual who will fill a position is known, her/his name and curriculum vitae (not to exceed one page each) should be attached. Note experience and training related to the proposed project. If the identity of staff is not known, describe your recruitment plan. If volunteers are involved in the project, provide job descriptions and methods to ensure accountability to the project.

9. Budget Breakdown and Justification: Provide a detailed budget for each priority activity to be undertaken, with accompanying justification of all operating expenses that is consistent with the stated objectives and planned activities of the project. CDC may not approve or fund all proposed activities. Be precise about the program purpose of each budget item and itemize calculations wherever appropriate.

For the personnel section, indicate the job title, annual salary/rate of pay, and percentage of time spent on this program.

For contracts contained within the application budget, name the contractor, if known; describe the services to be performed; justify using a third party; and provide a breakdown of and justification for the estimated costs of the subcontracts; the kinds of organizations or parties to be selected; the period of performance; and the method of selection.

10. Attachments: Provide the following as attachments:

a. Proof of nonprofit status. No awards will be made without acceptable proof of nonprofit status;

b. A list of the members of the governing body and their positions on the board, their expertise in working with or providing services to the proposed target population;

c. An organizational chart of existing and proposed staff, including the board of directors, volunteer staff;

d. A description of any funding received from CDC or other sources to conduct HIV/AIDS programs which includes:

(1) A summary of funds and income received to conduct HIV/AIDS programs and other programs targeting the population proposed in the program plan. This summary must include the name of the sponsoring organization/source of income, level of funding, a description of how the funds have been

used, and the budget period. In addition, identify proposed personnel devoted to this project who are supported by other funding sources and the activities of the funded programs;

(2) A summary of the objectives and activities of the funded programs;

(3) A description of how the requested funds will be used differently or in ways that will expand upon the funds already received, applied for, or being received; and

(4) An assurance that the funds being requested will not duplicate or supplant funds received from any other source.

e. Independent audit statements from a Certified Public Accountant for the previous 2 years.

f. Affiliates of national organizations must include an original, signed letter from the chief executive office of the national organization assuring their understanding of the intent of this program announcement and the responsibilities of recipients.

Note: Materials submitted as attachments should be printed on one side of 8½ x 11 paper. Please do not attach bound materials such as booklets or pamphlets. Rather, submit copies of the materials printed on one side of 8½ x 11 paper. Bound materials will not be reviewed.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit.

On or before July 23, 1999, submit the application to: Patrick Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99144, Centers for Disease Control and Prevention, 2920 Brandywine Road, Mail Stop E–15, Room 3000, Atlanta, Georgia 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are either received on or before the deadline date or sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) Applications that do not meet these criteria are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Organizational History and Capacity (25 points): The extent to which the applicant demonstrates experience in providing HIV prevention services to the target population and demonstrates experience in collaborating with non-governmental organizations and government agencies of a developing country.

2. Description of Target Population and Needs Assessment (10 points): The extent to which the applicant demonstrates a need for the program.

3. Plan for Sustaining Linkages (25 points): The extent to which the applicant provides proof of collaboration with the linkage partner/developing country counterpart, USAID Mission, and government agencies in the host country. This includes a letter of concurrence from the USAID Mission and government agencies in the host country, a signed memorandum of agreement with the linkage partner, as well as signed work plans, or other evidence of collaboration. The memorandum of agreement should describe previous, current, as well as future areas of collaboration.

4. Program Objectives (10 points): The extent to which the proposed objectives are specific, measurable, time-phased, related to the proposed activities, related to national HIV prevention goals, and consistent with the applicant's overall mission.

5. Program Plan (25 points): The quality of the applicant's plan for conducting program activities and the potential effectiveness of the proposed methods for establishing and sustaining partnerships.

6. Evaluation Plan (10 points): The extent to which the evaluation plan measures the accomplishment of program objectives.

7. Personnel (not scored): The appropriateness of the staffing pattern for the proposed project.

8. Budget (not scored): The appropriateness of the budget for the proposed project. A business and fiscal recipient capability assessment may be required of some applicants prior to the award of funds.

Before final award decisions are made, CDC may conduct pre-decisional site visits to highly ranked applicants. The purpose of these site visits will be to meet with project staff and a representative of the board of directors to assess the organizational capability of the applicant to implement the proposed program.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Quarterly progress reports

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Patrick Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Mail Stop E–15, Room 3000, Atlanta, GA 30341–4146.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 of the Public Health Service Act, [42 U.S.C. section 241(a) and 247(b)], as amended. The Catalog of Federal Domestic Assistance Number is 93.939, HIV Prevention Activities—Non-governmental Organization Based.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Patrick Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99144, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Mail Stop E–15, Room 3000, Atlanta, GA 30341–4146, telephone (770) 488–2731, Email address PHS3@CDC.GOV.

For program technical assistance, contact: Renee J. Saunders, M.S.W., National Center for HIV, STD, and TB

Prevention, Centers for Disease Control and Prevention 1600 Clifton Road, NE, Mail Stop E–35, Atlanta, Georgia 30333, Telephone (404) 639–5259, Email address: RJS4@CDC.GOV.

See also the CDC home page on the Internet: HTTP://WWW.CDC.GOV.

Dated: May 14, 1999.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–12693 Filed 5–19–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee.

Times and Dates: 8:30 a.m.–5 p.m., June 9, 1999; 8:30 a.m.–5 p.m., June 10, 1999.

Place: Weston Plaza Hotel and Convention Center, 1350 Blue Lakes Boulevard North, Twin Falls, Idaho 83301.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under section 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters To Be Discussed: Agenda items include presentations from the National Center for Environmental Health (NCEH), the National Institute for Occupational Safety and Health and ATSDR on updates regarding progress of current studies.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Information: Arthur J. Robinson, Jr., Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F–35, Atlanta, Georgia 30341–3724, telephone 770/488–7040, fax 770/488–7044.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 14, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–12696 Filed 5–19–99; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/CB–99–05]

Fiscal Year (FY) 1999 Notice of an Announcement of the Availability of Financial Assistance and Request for Applications To Support Adoption Opportunities Demonstration Projects, National Child Welfare Resource Centers and Child Welfare Training Projects

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Notice of Fiscal Year (FY) 1999 availability of financial assistance and request for applications to support projects under the Adoption Opportunities Program, Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended, [42 U.S.C. 5111]; the Child Welfare Training Program, Section 426 of Title IV–B, Subpart 1, of the Social Security Act, as amended, [42 U.S.C. 626]; Section 476a of title IV–E of the Social Security Act, as amended, [42 U.S.C. 676]; and Promoting Safe and Stable Families Program, Section 430 of Title IV–B, Subpart 2, of the Social Security Act, as amended, [42 U.S.C. 629].

SUMMARY: The Children's Bureau (CB) within the Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) announces the availability of fiscal year (FY) 1999 funds for competing new Adoption Opportunities Program, Child Welfare Resource Center and Child Welfare Training Projects. Funds from the Adoption Opportunities Program are designed to provide support for demonstration projects that facilitate the elimination of barriers to adoption and provide permanent loving homes for children who would benefit from adoption, particularly children with special needs. Title IV–E of the Social Security Act, Section 476a, provides funds for technical assistance to the States. Discretionary funds from the Promoting Safe and Stable Families Program support research, training and technical assistance and evaluation efforts to preserve families. The Child Welfare Training Program funds supports discretionary awards to public or other non-profit institutions of higher learning for special projects for training personnel for work in the field of child

welfare, including traineeships with such stipends and allowances as may be permitted by the Department of Health and Human Services (DHHS). Specific priority areas for which grant awards are being solicited include:

99A: Adoption Opportunities

99A.1: Innovations for Increasing Adoptions of Minority Children
99A.2: Targeted Field-Initiated Research and Service Demonstrations
99A.3: Support for Improving Implementation of the Interstate Compact on the Placement of Children
99A.4: Collaborative Planning to Increase Inter-jurisdictional Adoptions

99B: Child Welfare National Resource Centers

99B.1: National Resource Center for Youth Development
99B.2: National Resource Center for Child Welfare Services and Information Technology
99B.3: National Resource Center for Foster Care and Permanency Planning
99B.4: National Resource Center for Organizational Improvement
99B.5: National Resource Center on Legal and Judicial Issues
99B.6: National Resource Center for Family-Centered Practice

99C: Child Welfare Training Discretionary Grants

99C.1: Training of Child Welfare Staff to Develop Child-focused Intervention Skills
99C.2: Training of Child Welfare Staff to Develop Cultural Competence Needed to Work with Tribal Children and Families

DATES: The date and time deadline for RECEIPT of applications by DHHS for new grants under this announcement 4:30 p.m. (Eastern Time Zone) on July 19, 1999.

FOR FURTHER INFORMATION: Copies of the program announcement will be automatically sent to all current Children's Bureau grantees, all organizations that applied for grant awards in FY 98 and all individuals and organizations that have asked to be placed on the mailing list for the FY 1999 announcement. Copies of the program announcement can be obtained by calling the ACYF Operations Center at 1–800–351–2293. A copy of this program announcement is also located under Policy and Funding Announcements at the Children's Bureau website at http://www.acf.dhhs.gov/programs/cb.

SUPPLEMENTARY INFORMATION: Grant awards of FY 1999 funds will be made by September 30, 1999. The estimated funds available for new awards is $10.6 million and the approximate number of new grants is estimated at 38.

(*Catalog of Federal Domestic Assistance.* Number 93.652, Adoption Opportunities Grants; Number 93.658, Foster Care; Number 93.556, Promoting Safe and Stable Families; and Number 93.648, Child Welfare Training)

Dated: May 13, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 99–12700 Filed 5–19–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Federal Allotments to State Developmental Disabilities Councils (DDCs) and Protection and Advocacy (P&A) Formula Grant Programs for Fiscal Year 2000

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of Fiscal Year 2000 Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs.

SUMMARY: This notice sets forth Fiscal Year 2000 individual allotments and percentages to States administering the State Developmental Disabilities Councils and Protection and Advocacy programs, pursuant to Section 125 and Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). The allotment amounts are based on the 1999 Budget Request and are contingent upon Congressional appropriations for Fiscal Year 2000. If Congress enacts and the President approves a different appropriation amount, the allotments will be adjusted accordingly.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Doris Lee, Grants Fiscal Management Specialist, Family Support Branch, Division of Formula, Entitlement and Block Grants, Office of Financial Operations, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade S.W., Washington, D.C. 20447, Telephone (202) 205–4626.

SUPPLEMENTARY INFORMATION: Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year. It should be noted that, as required by the Compact of Free Association, Palau is no longer eligible to receive funds. Also, in relation to the State DDC allotments, the description of service needs were reviewed in the State plans and are consistent with the results obtained from the data elements and projected formula amounts for each State (Section 125(a)(5)).

The Administration on Developmental Disabilities has updated the data elements for issuance of Fiscal Year 2000 allotments for the Developmental Disabilities formula grant programs. The data elements used in the update are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1997, are from Table 5.J10 of the ''Social Security Bulletin: Annual Statistical Supplement 1998'' issued by the Social Security Administration. The number for the Northern Mariana Islands was obtained from the Social Security Administration;

B. State data on Average Per Capita Income are from Table SA05 of the ''Survey of Current Business,'' September 1997, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on Total Population and Working Population (ages 18–64) as of July 1, 1997, are from the ''Estimates of Resident Population of the U.S. by Selected Age Groups and Sex,'' issued by the Bureau of the Census, U.S. Department of Commerce. Estimates for the Territories were issued for the first time since the 1990 Census Population Counts. The Territories' working populations were issued in the Bureau of Census report, ''General Characteristics Report: 1980,'' which is the most recent data available from the Bureau.

TABLE 1.—FY 2000 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	State developmental disabilities councils	Percentage
Total	[1] $64,803,000	100.000000
Alabama	1,262,258	1.947839
Alaska	403,093	.622028
Arizona	852,424	1.315408
Arkansas	736,835	1.137038
California	5,577,058	8.606173
Colorado	702,519	1.084084
Connecticut	636,590	.982346
Delaware	403,093	.622028
District of Columbia	403,093	.622028
Florida	2,738,067	4.225216
Georgia	1,588,851	2.451817
Hawaii	403,093	.622028
Idaho	403,093	.622028
Illinois	2,546,852	3.930145
Indiana	1,405,033	2.168160
Iowa	763,027	1.177456
Kansas	585,694	.903807
Kentucky	1,167,866	1.802179
Louisiana	1,355,909	2.092355
Maine	403,093	.622028
Maryland	888,140	1.370523
Massachusetts	1,232,540	1.901980
Michigan	2,260,428	3.488153
Minnesota	966,203	1.490985
Mississippi	899,331	1.387792
Missouri	1,271,438	1.962005
Montana	403,093	.622028
Nebraska	408,345	.630133
Nevada	403,093	.622028
New Hampshire	403,093	.622028
New Jersey	1,431,866	2.209567
New Mexico	443,040	.683672
New York	3,978,194	6.138750
North Carolina	1,742,316	2.688635
North Dakota	403,093	.622028
Ohio	2,751,460	4.245884
Oklahoma	875,043	1.350312
Oregon	674,084	1.040205
Pennsylvania	2,982,930	4.603074
Rhode Island	403,093	.622028
South Carolina	1,015,658	1.567301
South Dakota	403,093	.622028
Tennessee	1,384,131	2.135906
Texas	4,113,190	6.347222
Utah	500,192	.771866
Vermont	403,093	.622028
Virginia	1,317,943	2.033768
Washington	1,022,074	1.577202
West Virginia	728,693	1.124474
Wisconsin	1,231,658	1.900619
Wyoming	403,093	.622028
American Samoa	211,625	.326567
Guam	211,625	.326567
Northern Mariana Islands	211,625	.326567
Puerto Rico	2,275,418	3.511285
Virgin Islands	211,625	.326567

[1] Allocations are computed based on the requirements of Section 125(a)(3)(B)—Reduction of Allotment of the Act.

TABLE 2.—FY 2000 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Protection and advocacy	Percentage
Total	[1] $26,183,640	100.000000
Alabama	440,488	1.682302
Alaska	254,508	.972012
Arizona	366,883	1.401192

TABLE 2.—FY 2000 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Protection and advocacy	Percentage
Arkansas	263,838	1.007644
California	2,238,705	8.550014
Colorado	281,419	1.074789
Connecticut	262,297	1.001759
Delaware	254,508	.972012
District of Columbia	254,508	.972012
Florida	1,107,462	4.229595
Georgia	615,186	2.349505
Hawaii	254,508	.972012
Idaho	254,508	.972012
Illinois	899,454	3.435176
Indiana	504,761	1.927772
Iowa	260,532	.995018
Kansas	254,508	.972012
Kentucky	407,830	1.557576
Louisiana	465,862	1.779210
Maine	254,508	.972012
Maryland	344,455	1.315535
Massachusetts	445,897	1.702960
Michigan	829,459	3.167852
Minnesota	348,788	1.332084
Mississippi	314,344	1.200536
Missouri	461,734	1.763445
Montana	254,508	.972012
Nebraska	254,508	.972012
Nevada	254,508	.972012
New Hampshire	254,508	.972012
New Jersey	524,188	2.001968
New Mexico	254,508	.972012
New York	1,392,058	5.316518
North Carolina	648,421	2.476436
North Dakota	254,508	.972012
Ohio	978,964	3.738838
Oklahoma	310,330	1.185206
Oregon	266,748	1.018785
Pennsylvania	1,028,682	3.998409
Rhode Island	254,508	.972012
South Carolina	369,392	1.410774
South Dakota	254,508	.972012
Tennessee	495,137	1.891017
Texas	1,546,785	5.907448
Utah	254,508	.972012
Vermont	254,508	.972012
Virginia	513,852	1.962493
Washington	396,806	1.515473
West Virginia	274,742	1.049289
Wisconsin	444,030	1.695830
Wyoming	254,508	.972012
American Samoa	136,161	.520023
Guam	136,161	.520023
Northern Mariana Islands	136,161	.520023
Puerto Rico	853,915	3.261254
Virgin Islands	136,161	.520023
DNA People Legal Services[2]	136,161	.520023

[1] In accordance with Public Law 104–183, Section 142(c)(5), $534,360 has been withheld for funding technical assistance. The statute provides for spending up to two percent (2%) of the amount appropriated under Section 143 to fund technical assistance. Unused funds will be reallotted in accordance with Section 142(c)(1) of the Act.

[2] American Indian Consortiums are eligible to receive an allotment under Section 142(c)(1)(A)(i).

Dated: May 13, 1999.

Sue E. Swenson,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 99–12699 Filed 5–19–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0754]

Determination of Regulatory Review Period for Purposes of Patent Extension; Omnicef® Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Omnicef® Tablets and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Omnicef® Tablets (cefdinir). Omnicef® Tablets is indicated for the treatment of patients with mild to moderate infections caused by susceptible strains of specific microorganisms in specified conditions. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Omnicef® Tablets (U.S. Patent No. 4,559,334) from Warner-Lambert Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 14, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Omnicef® Tablets represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Omnicef® Tablets is 2,745 days. Of this time, 2,288 days occurred during the testing phase of the regulatory review period, while 457 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* June 1, 1990. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 1, 1990.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* September 4, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Omnicef® Tablets (NDA 50–739) was initially submitted on September 4, 1996.

3. *The date the application was approved:* December 4, 1997. FDA has verified the applicant's claim that NDA 50–739 was approved on December 4, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,601 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 19, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 16, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–12651 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0474]

Determination of Regulatory Review Period for Purposes of Patent Extension; Tazorac®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined

the regulatory review period for Tazorac® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Tazorac® (tazarotene). Tazorac® is indicated for the topical treatment of patients with stable plaque psoriasis of up to 20 percent body surface area involvement and for the topical treatment of patients with facial acne vulgaris of mild to moderate severity. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Tazorac® (U.S. Patent No. 5,089,509) from Allergan, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 28, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Tazorac® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Tazorac® is 2,684 days. Of this time, 1,958 days occurred during the testing phase of the regulatory review period, while 726 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* February 8, 1990. The applicant claims February 16, 1990, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was February 8, 1990, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* June 19, 1995. FDA has verified the applicant's claim that the new drug application (NDA) for Tazorac® (NDA 20–600) was initially submitted on June 19, 1995.

3. *The date the application was approved:* June 13, 1997. FDA has verified the applicant's claim that NDA 20–600 was approved on June 13, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 845 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 19, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 16, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–12652 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0840]

Determination of Regulatory Review Period for Purposes of Patent Extension; Omnicef® Oral Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Omnicef® Oral Suspension and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417)

and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Omnicef® Oral Suspension (cefdinir). Omnicef® Oral Suspension is indicated for the treatment of patients with mild to moderate infections caused by susceptible strains of specific microorganisms in specified conditions. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Omnicef® Oral Suspension (U.S. Patent No. 4,935,507) from Warner–Lambert Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 14, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Omnicef® Oral Suspension represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Omnicef® Oral Suspension is 2,745 days. Of this time, 2,406 days occurred during the testing phase of the regulatory review period, while 339 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: June 1, 1990. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 1, 1990.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: December 31, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Omnicef® Oral Suspension (NDA 50–749) was initially submitted on December 31, 1996.

3. *The date the application was approved*: December 4, 1997. FDA has verified the applicant's claim that NDA 50–749 was approved on December 4, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,213 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 19, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 16, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 4, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–12654 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 17, 1999, 8 a.m. to 5 p.m. and June 18, 1999, 8 a.m. to 3 p.m.

Location: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD.

Contact Person: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 17, 1999, in the morning, the committee will discuss and provide recommendations on inadvertent contamination of plasma pools for fractionation: Risk issues. In the afternoon, the committee will discuss strategies for insuring compliance in the plasma fractionation industry, and the supply and demand of plasma derivatives. On June 18, 1999, the committee will hear informational presentations on the blood action plan and the device action plan, discuss and provide recommendations on the topic of deferral of blood donors at risk of malaria, and discuss and provide comments on the topic of HTLV supplemental tests.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact

person by June 7, 1999. Oral presentations from the public will be scheduled between approximately 10 a.m. and 10:30 a.m.; 1:30 p.m. and 2 p.m.; and 4 p.m. and 4:30 p.m. on June 17, 1999, and between 10:30 a.m. and 11 a.m. and 2 p.m. and 2:30 p.m. on June 18, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 7, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 14, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–12793 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 23, 1999, 8 a.m. to 6 p.m., and June 24, 1999, 8 a.m. to 5 p.m.

Location: Hilton Hotel, Salons C, D, and E, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: John E. Stuhlmuller, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8243, ext. 157, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 23, 1999, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for an endovascular graft for the treatment of abdominal aortic aneurysms. Subsequently, the committee will discuss, make recommendations, and vote on a PMA for an endovascular graft for the treatment of abdominal aortic or aorto-iliac aneurysms. On June 24, 1999, the committee will discuss, make recommendations, and vote on a PMA for a prosthetic heart valve. Subsequently, the committee will discuss, make recommendations, and vote on a PMA for a dual-chamber defibrillator for the treatment of atrial and ventricular tachyarrhythmias.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 13, 1999. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m. on June 23, 1999 and June 24, 1999. Near the end of committee deliberations on both days, a 30-minute open public hearing will be conducted for interested persons to address issues specific to the topics before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 13, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 14, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–12792 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 7 and 8, 1999, 8 a.m. to 5:30 p.m.

Location: Town Center Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD.

Contact Person: Karen M. Templeton–Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20057, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss: (1) The use of time-to-progression as the primary endpoint in breast cancer drug trials; and (2) new drug application (NDA) 21–010, epirubicin hydrochloride for injection, Pharmacia and Upjohn Co., indicated for use as a component of adjuvant therapy in patients with evidence of axillary-node-tumor involvement following resection of primary breast cancer (Stage II & III). Epirubicin is indicated for the therapy of patients with locally advanced or metastatic breast cancer. On June 8, 1999, the committee will discuss: (1) NDA 50–718/S–006, Doxil® (doxorubicin HCl liposome injection), Alza Corp., indicated for the treatment of patients with metastatic carcinoma of the ovary who are refractory to both paclitaxel- and platinum-based chemotherapy regimens and who may also be refractory to topotecan. Refractory is defined as a patient having progressive disease while on treatment, or within 6 months of completing treatment; and (2) NDA 20–221/S–012, Ethyol® (amifostine) for injection, U.S. Bioscience, Inc., indicated for use to reduce the incidence and severity of radiation induced xerostomia.

Procedure: On June 7, 1999, from 10:30 a.m. to 5:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 28, 1999. Oral presentations from the public will be scheduled between approximately 10:45

a.m. and 11 a.m. and 1:45 p.m. and 2:15 p.m. on June 7, 1999, and between approximately 8:15 a.m. and 8:45 a.m. on June 8, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 28, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation. After the scientific presentations, a 15-minute open public session will be conducted for interested persons who have submitted their request to speak by May 28, 1999, to address issues specific to the submission or topic before the committee.

Closed Committee Deliberations: On June 7, 1999, from 8 a.m. to 10 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this information.

FDA regrets that it was unable to publish this notice 15 days prior to the June 7 and 8, 1999, Oncologic Drugs Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Oncologic Drugs Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 14, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–12852 Filed 5–18–99; 11:31 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Transmissible Spongiform Encephalopathies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Transmissible Spongiform Encephalopathies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 2, 1999, 8:30 a.m. to 5:30 p.m., and June 3, 1999, 8:30 a.m. to 4 p.m.

Location: Holiday Inn, Ballroom II, Montgomery Village Ave., Gaithersburg, MD.

Contact Person: William Freas or Sheila D. Langford, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12392. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 2, 1999, the committee will continue the discussion from its December 18, 1998, meeting on the possible deferral of blood or blood product donors based on geographical criteria linked to possible food-borne exposure to the agent of bovine spongiform encephalopathy as a measure to reduce the potential for transmission of new variant Creutzfeldt-Jakob Disease (nvCJD). The transcripts of the December meeting are available on the FDA home page (http://www.fda.gov/ohrms/dockets/ac/98tctm.htm). The potential effects of such deferrals on the supply of blood and blood products will be considered as part of the committee's deliberations. The results of a survey of blood donors for duration and time periods of their visits to U.K. countries are expected to be presented. On June 3, 1999, the committee will receive an update on dura mater allograft materials. The committee will then discuss precautions needed to assure safe sources of sheep-derived and goat-derived materials contained in or used to manufacture injectable or implantable FDA-regulated products.

Procedure: On June 2, 1999, from 8:30 a.m. to 5:30 p.m., and June 3, 1999, from 8:30 a.m. to 3:45 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 26, 1999. Oral presentations from the public will be scheduled between approximately 1:45 p.m. and 2:45 p.m. on June 2, 1999, and between 1 p.m. and 1:30 p.m. on June 3, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 26, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 3, 1999, from 3:45 p.m. to 4 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

FDA regrets that it was unable to publish this notice 15 days prior to the June 2, 1999, Transmissible Spongiform Encephalopathies Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Transmissible Spongiform Encephalopathies Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 11, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–12653 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1171]

Draft ''Guidance for Industry: For Platelet Testing and Evaluation of Platelet Substitute Products;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled ''Guidance for Industry: For Platelet Testing and Evaluation of Platelet Substitute Products.'' Recent technological advances regarding platelet physiology

and biochemistry have altered the way that platelets can be evaluated. The draft guidance document, when finalized, is intended to provide manufacturers with updated guidance on the evaluation of platelets and of their substituted products.

DATES: Written comments may be submitted at any time, however, comments should be submitted by July 19, 1999, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Guidance for Industry: For Platelet Testing and Evaluation of Platelet Substitute Products'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: For Platelet Testing and Evaluation of Platelet Substitute Products.'' New instrumentation and information about platelet physiology and biochemistry have altered the way that platelets can be evaluated. These advances have prompted FDA's development of an updated draft guidance document regarding platelet testing. The draft guidance document provides recommendations on the evaluation of platelets and platelet substitute products including: In vitro evaluation of platelet biochemistry and function, evaluation of platelet survival in circulation, clinical hemostatic efficacy, and guidance for testing potential platelet substitutes. The draft guidance document, when finalized, is intended to delineate principles of general applicability for evaluation of platelets collected and processed by novel technologies and would replace the document entitled ''Platelet Testing Guidelines'' (July 1981) published in the **Federal Register** of October 2, 1981 (46 FR 48768).

The draft guidance document represents the agency's current thinking on platelet testing and evaluation of platelet substitute products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by July 19, 1999, to ensure adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments and requests for copies should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document by using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: May 10, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–12649 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0528]

''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use''; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use.'' FDA intends to consider, for licensure of commercially-produced fibrin sealants, data from pivotal studies in which the primary endpoint is hemostasis effectiveness. This document is intended to provide guidance to manufacturers of fibrin sealant products for the design of clinical trials intended to support licensure.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use.'' This document provides guidance regarding clinical data used to support licensure of safe and effective commercially-produced fibrin sealants in the United States.

The guidance document announced in this notice replaces the draft guidance entitled ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use'' that was announced in the **Federal Register** of January 26, 1998 (63 FR 3750).

The guidance document represents the FDA's current thinking on efficacy studies to support marketing of fibrin sealant products manufactured for commercial use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this guidance document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

Interested persons, may at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: May 10, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–12650 Filed 5–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–285]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the Information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because public harm is likely to occur if the information is not collected. The beneficiaries affected by this legislation may be eligible for free Part A as early as January 1998 if certain requirements are met. One of the requirements is that the beneficiary's retirement plan or former employer verify specific information before a determination can be made regarding whether the beneficiary qualifies for free Part A. Until a decision is made, the beneficiary must continue to pay the monthly Part A premium of $309.00; therefore, causing public harm.

HCFA is requesting OMB review and approval of this collection by 6/15/99, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by 6/11/99. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New Collection;

Title of Information Collection: Request for Retirement Benefit Information;

Form No.: HCFA–R–285 (OMB# 0938–NEW);

Use: This form will be used to obtain information regarding whether a beneficiary is receiving retirement payments based on State or local government employment, how long the claimant worked for the State or local government employer, and whether the former employer or pension plan subsidizes the beneficiary's Part A premium. The purpose in collecting this information is to determine and provide those eligible beneficiaries, with free Part A Medicare coverage.;

Frequency: On Occasion;

Affected Public: State, Local or Tribal Government, and Individuals or Households;

Number of Respondents: 1500;

Total Annual Responses: 1500;

Total Annual Hours: 375.

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, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of Information requirements. However, as noted above, comments on these Information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by 6/11/99:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Date: May 12, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–12731 Filed 5–19–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request, Special Volunteer and Guest Researcher Assignment

SUMMARY: Under the provisions of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Director, National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 10, 1999, pages 6666–6667 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to an information collection that has been extended, revised, or implemented on or after October 1, 1999, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: *Title:* Special Volunteer and Guest Research Assignment. *Type of Information Collection:* Revision of OMB NO.0925–0177; 4/30/00. *Need and Use of Information Collection:* Form NIH–590 records, names, address, employer, education, and other information on prospective Special Volunteers and Guest Researchers, and is used by the responsible National Institutes of Health approving official to determine the individual's qualifications and eligibility for such assignments. The form is the only official record of approved assignments. *Frequency of Response:* On occasion. *Affected Public:* Individuals seeking to provide uncompensated services to the NIH. *Type of Respondents:* Guest Researcher and Special Volunteer candidates. *Estimated Number of Respondents:* 1,630. *Estimated Number of Responses Per Respondent:* 1. *Average Burden Hours Requested:* 0.1. *Estimated Total Annual Burden Hours Requested:* 163. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondent	Estimated number of respondents	Estimated number of response per respondent	Average burden hours per response	Estimated total annual burden hours requested
Guest Researcher	400	1	0.1	40
Special Volunteer	1230	1	0.1	123
Total	1630	1	0.1	163

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and the clarity of information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Yetta L. Patterson, Personnel Management Specialist, Office of Human Resource Management, OD, NIH, Executive Plaza South, 6120 Executive Blvd., Suite 100, Rockville, MD 20892, or call (301) 496–2404 or E-Mail your request, including your address to: yp3k@nih.gov.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before June 21, 1999.

Dated: May 7, 1999.

Stephen C. Benowitz,

Director of Human Resources.

[FR Doc. 99–12780 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) 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 open to the public with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Special Emphasis Panel The Early Detection Research Network: Biomarkers Developmental Laboaratories.

Date: June 14–16, 1999.

Time: 7 pm to 5 pm.

Agenda: To provide concept review of proposed grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852

Contact Person: Lalita D Palekar, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN—622B, Rockville, MD 20892–7405, 301/496–7575.

(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: May 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–12769 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel General Clinical Research Centers Review Committee

Date: June 16, 1999.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John D. Harding, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0820.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–12770 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel, Research Centers in Minority Institutions Review Committee.

Date: June 7–8, 1999.

Time: June 7, 1999, 2:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Grace S. Ault, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 13, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institute of Health.

[FR Doc. 99–12776 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye 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 Eye Council.

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 Eye Council.

Date: June 10, 1999.

Open: 8:30 AM to 11:30 AM.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute programs and policies.

Place: 6120 Executive Blvd., EPN Conference Room G, Rockville, MD 20852.

Closed: 11:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., EPN Conference Room G, Rockville, MD 20852.

Contact Person: Lois DeNinno, National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., MSC 7167, Bethesda, MD 20892, 301–496–9110.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–12768 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Biomedical Research Review Subcommittee.

Date: June 14, 1999.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ronald Suddendorf, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–6106, rsuddend@willco.niaaa.nih.gov.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee.

Date: July 1–2, 1999.

Time: 11:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Fess Parker's Double Tree Hotel, 633 East Cabrillo Blvd, Santa Barbara, CA 93103.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

(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: May 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–12766 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, June 17, 1999, 8:30 AM to June 17, 1999, 5 PM, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD, 20892 which was published in the **Federal Register** on May 13, 1999, 64 FR 25895.

This meeting will be held on June 3, 1999, 8:30 AM to June 3, 1999, 5:00 PM, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892. The meeting is partially Closed to the public.

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–12767 Filed 5–19–99; 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 Initial Review Group Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 29, 1999.

Time: 8:00 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Hagan, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Building 45, Bethesda, MD 20892, (301) 594–8886.

(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: May 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12771 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: July 6, 1999.

Time: 10:00 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeffrey M. Chernak, Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12772 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the

National Advisory Dental Research Council.

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/or contract proposal 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 Dental Research Council NADCRC.

Date: May 24–25, 1999.

Open: May 24, 1999, 8:30 AM to 5 PM.

Agenda: Report of the Director, Perspectives & Experiences with Interdisciplinary Health Professions, Concept Clearances, Blue Ribbon Panel Update.

Place: Building 31C, Conference Room 10, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Closed: May 25, 1999, 9:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Building 31C, Conference Room 10, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Contact Person: Dushanka V. Kleinman, Deputy Director, National Institute of Dental & Craniofacial Res., National Institutes of Health, 9000 Rockville Pike, 31/2C39, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12773 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental 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 as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental Research, Oral Infection & Immunity Branch; Craniofacial, Epidemiology & Genetics Branch.

Date: June 2–4, 1999.

Closed: June 2, 1999, 8:30 a.m. to 9 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Open: June 2, 1999, 9 a.m. to 5 p.m.

Agenda: Personal qualifications and performance, and competence of individual investigators.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Open: June 3, 1999, 8:30 a.m. to 4:15 p.m.

Agenda: Personal qualifications and performance, and competence of individual investigators.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Closed: June 3, 1999, 4:15 p.m. to 6:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Open: June 4, 1999, 9:00 a.m. to 12:00 p.m.

Agenda: Craniofacial, Epidemiology & Genetics Branch.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Closed: June 4, 1999, 12:05 pm. to 4:30 pm.

Agenda: To review and evaluate executive Session, Exit Interview with Branch Chief, Oral Infection & Immunity Branch, Exit interview with Acting Deputy Branch Chief, Craniofacial, Epidemiology & Genetics Branch Chief.

Place: NIH, Building 30, Room 132, Bethesda, MD 20892.

Contact Person: Brent M. Jaquet, National Institute of Dental Research, Director, Office of Planning Evaluation and Communications, National Institute of Dental & Craniofacial Res., National Institutes of Health, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 14, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12774 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 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 552(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 person privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: June 17, 1999.

Open: 8:30 am to 9 am.

Agenda: The meeting will be open for discussion of administrative details relating to committee business and program review, and for a report from the Director, Division of Extramural Activities, which will include a discussion of budgetary matters.

Place: Holiday Inn Georgetown, Fortune Room, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Closed: 9 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, Fortune Room, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Madelon C. Halula, Acting Scientific Review Administrator, Allergy, Immunology and Transplantation Review Committee, Scientific Review Program, NIAID, Solar Building, Room 4C16, 6003 Executive Boulevard, Bethesda, MD 20892–7610, 301–402–2636, mh30x@nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–12775 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: July 8–9, 1999.

Time: July 9, 1999, 1:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: The Mayflower Hotel, 15 Central Park West, New York, NY 10023–7709.

Contact Person: Jeffrey M. Chernak, Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 13, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12778 Filed 5–19–99; 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 Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 29, 1999.

Time: 8:00 am to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Hagan, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Building 45, Bethesda, MD 20892, (301) 594–8886.

(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: May 13, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–12779 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 24, 1999.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Contact Person: Camilla E. Day, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7840, Bethesda, MD 20892, (301) 435–1037.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–12777 Filed 5–19–99; 8:45 am]

BILLING CODE 4140–01–Ms

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

DEPARTMENT OF EDUCATION

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Fiscal Year 1999 Funding Opportunity

AGENCIES: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, Department of Education, Office of Elementary and Secondary Education, Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of availability of funds for a cooperative agreement for a coordinating center for the development of community partnerships and the provision of technical assistance to prevent school violence and enhance resilience.

SUMMARY: The U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS), and the Departments of Education and Justice (Agencies) announce the availability of FY 1999 funds for one cooperative agreement for the following activity. This activity is discussed in more detail under section 4 of this notice. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Note: SAMHSA also published notices of available funding opportunities for FY 1999 in previous issues of the **Federal Register**.

Activity	Application deadline	Estimated funds available	Estimated number of awards	Project period
Violence Prevention Coordination	07/13/99	$2.8 Million ..	1	Up to 3 yrs.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 1999 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 105–277. 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, page 35962) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

GENERAL INSTRUCTIONS: Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (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 the organization specified for the activity covered by this notice (see section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of the activity (i.e., the GFA) described in section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

APPLICATION SUBMISSION: Applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710.*

(* Applicants who wish to use express mail or courier service should change the zip code to 20817.)

APPLICATION DEADLINES: The deadline for receipt of applications is listed in the table above.

Competing applications must be received by the indicated receipt date to be accepted for review. An application received after the deadline may only be accepted if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for the activity covered by this notice (see section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for the activity covered by this notice (see section 4).

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1999 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council

members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a ''menu'' of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1999 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activity in section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding 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.

Other funding criteria will include:

- Availability of funds.

4. Special FY 1999 SAMHSA Activity

4.1. Coordinating Center for the Development of Community Partnerships and the Provision of Technical Assistance to Prevent School Violence and Enhance Resilience (Violence Prevention Coordination, SM 99–013)

- Application Deadline: July 13, 1999
- Purpose: The U. S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) and the Departments of Education and Justice announce the availability of a cooperative agreement for a Coordinating Center for the Development of Community Partnerships and the Provision of Technical Assistance to Prevent School Violence and Enhance Resilience, hereinafter referred to as the Violence Prevention Coordinating Center (VPC), to provide technical assistance for grantees in the Inter-Departmental Safe Schools/Healthy Students (SS/HS) Initiative, the CMHS School Action Grant Program, and other CMHS violence prevention-related activities. This Cooperative Agreement requires the grantee to develop a model for providing assistance designed to provide the highest quality of facilitation, training, and technical assistance to the Federal grantees in SS/HS and School Action Grant programs and to other contractors involved in the CMHS School Violence Prevention program by creating an organized group of nationally known experts and established TA entities who have the knowledge and skills pertinent to the programmatic goals of the targeted grantees. Safe Schools/Healthy Students Initiative and School Action grantees are linked to expert consultants through individualized brokering based on local need. The VPC Consultant/Broker is responsible for matching a grantee's TA needs to an expert or experts who can be effective in offering consultation or facilitation in solving specific grantee problems or challenges. Over the course of this grant program, TA could increasingly be provided by peer grantees who have developed significant expertise. The VPC shall emphasize and encourage accountability through the creation and maintenance of continuous feedback mechanisms.
- Eligibility: Applications may be submitted by domestic public or private nonprofits such as incorporated volunteer organizations, units of State or local governments, community-based organizations, and public or private universities, colleges, and hospitals. The U.S. Department of Education is an essential partner in the Inter-Departmental Safe Schools/Healthy Students Initiative. The Department of Education is statutorily restricted to funding only nonprofit recipients. It is seen to be in the interest of the Departments and the Inter-Departmental grantees to provide technical assistance in a comprehensive and coordinated manner to the Inter-Departmental grantees, and to avoid the separation and fragmentation involved in awarding to two types of recipients, i.e., a profit maker and a nonprofit. The grantees will thus be able to obtain assistance from one source, a nonprofit, which will better ensure the success and effectiveness of the Initiative.
- Grants/Amounts: Approximately $2.8 million will be available per year to support one grantee. This award covers both direct and indirect costs.
- Period of Support: Support may be requested for a period of up to 3 years. Annual awards will be made subject to

continued availability of funds and progress achieved.

• Catalog of Federal Domestic Assistance Number: 93.230

• Program Contact: For programmatic or technical assistance 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 18C–07, Rockville, MD 20857, (301) 443–7790, 301–443–7912 (Fax).

Gwendolyn G. Bennett, Public Health Advisor, 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 18C–07, Rockville, MD 20857, (301) 443–7790, (301) 443–7912 (Fax).

• Questions Regarding Grants Management Issues may be directed to Stephen J. Hudak, Division of Grants Management, OAPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, Maryland 20857; (301) 443–4456, E-Mail: shudak@samhsa.gov.

• For application kits, contact: Knowledge Exchange Network (KEN). PO Box 42490, Washington, DC 20015. Voice (800) 789–2647, TTY: (301) 443–9006, FAX (301) 984–8796

5. 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, Pub. L. 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.

Dated: May 11, 1999.

Nelba Chavez,

Administrator, Substance Abuse and Mental Health Services Administration.

Dated: May 13, 1999.

Judith Johnson,

Acting Assistant Secretary, Office of Elementary and Secondary Education.

Dated: May 14, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–12710 Filed 5–19–99; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4444–N–07]

Notice of Proposed Information Collection: Training Materials and Guidance on Interpreting Lead-Based Paint Inspection and Risk Assessment Reports

AGENCY: Office of Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gail N. Ward, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room P3206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David K. Levitt, 202–755–1785 ext. 156 (this is not a toll-free number) for available documents regarding this proposal.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Develop training materials and guidance on interpreting lead-based paint inspection and risk assessment reports.

OMB Control Number: To be assigned.

Need for the Information and Proposed Use: Lead-based paint inspections and risk assessments are often performed in accordance with the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (''Guidelines'') issued under section 1017 of the Presidential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), known as ''Title X.'' To allow for situational flexibility, such reports do not have to follow a standardized format. Information recommended to be included in these reports is described in the Guidelines, for inspections in chapter 7, and risk assessments in chapter 5. Anecdotal and other evaluations of inspection and risk assessment reports (e.g., Field Evaluation of Lead-Based Paint Inspections, Final Technical Report, HUD Office of Lead Hazard Control, September 30, 1998) indicate that many reports are missing important information, organized poorly, and/or difficult to understand. An inspection or risk assessment report should be easily understood by readers familiar with basic quantitative and qualitative descriptive information on buildings and environmental measurements. This information collection is designed to provide the basis for developing materials to help lead-based paint inspectors and risk assessors prepare clear and complete reports, and to help readers use inspection and risk assessment reports. HUD plans to identify and recruit a review panel of lead-based paint inspectors, risk assessors, trainers, and other lead-based paint professionals to review and summarize pertinent documents, such as the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, the EPA

model lead-based paint inspector curriculum, and review draft training materials intended for use in lead-based paint inspector or risk assessor training course segments on preparing an accurate inspector report that will be easily understood by non-inspector readers.

Agency form numbers: None.

Members of affected public: Lead-based paint inspectors, risk assessors, and trainers, and other lead-based paint professionals.

Total Burden Estimate:

Number of respondents	Frequency of response	Hours of response
20	3	320

Status of the proposed information collection: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 12, 1999.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 99–12760 Filed 5–19–99; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4444–N–08]

Notice of Proposed Information Collection: A Review of Currently Available Lead-Based Paint Encapsulants and Use Patterns in the Control of Residential Lead-Based Hazards

AGENCY: Office of Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gail N. Ward, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room P3206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dr. Peter Ashley, 202–755–1785, ext. 115 (this is not a toll-free number) for available documents regarding this proposal.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: A Review of Currently Available Lead-Based Paint Encapsulants and Use Patterns in the Control of Residential Lead-Based Hazards.

OMB Control Number: To be assigned.

Need for the Information and Proposed Use: Various means of treating residential lead-based paint hazards have been developed to reduce or eliminate the potential that occupants could be overexposed to lead. One such method referred to as ''encapsulation'' involves the creation of a coating over the lead-based paint. Lead-based paint encapsulants are generally categorized as either non-reinforced or reinforced liquid coatings or adhesively bonded covering materials. Reinforced encapsulants are those that incorporate a fabric, mat or mesh reinforcement with a polymeric or cementitious coating, while non-reinforced encapsulants are coatings applied without the use of reinforcing material.

The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (''Guidelines'') recommend that encapsulation be considered an acceptable method of abating lead-based paint hazards, provided, among other things, that the manufacturer warrants that the product, if applied correctly, will remain effective for at least 20 years. Although there is considerable interest regarding the use of this potentially cost-effective lead abatement method, there has been no systematic attempt to review currently available products or users' experiences with these products.

This information collection will involve brief telephone interviews of encapsulant manufacturers and key users of these products. If appropriate, the results of this information collection will be used to improve existing HUD guidance on the use of lead-based paint encapsulants; findings may also be used to determine the need for and to design a study of the long term effectiveness of encapsulants in controlling lead-based paint hazards.

Agency Form Numbers: None.

Members of Affected Public: Manufacturers of lead-based paint encapsulants and major users of these products.

Total Burden Estimate (first year):

Number of respondents	Frequency of response	total hours of response
80	1	40

Status of the proposed information collection: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 11, 1999.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 99–12761 Filed 5–19–99; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–12]

Notice of Proposed Information Collection: Comment Request; Management Certifications and Management Entity Profile

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410, telephone (202) 708–3000, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Management Certifications and Management Entity Profile.

OMB Control Number, if applicable: 2502–0305.

Description of the need for the information and proposed use: Management Certifications and Management Entity Profile.

Agency form numbers, if applicable: HUD–9832, 9839A, 9339B, 9839C.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 3,600, frequency of responses is 1, and the total annual responses are 3,600, and the estimated annual burden hours requested is 4,350.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 12, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–12762 Filed 5–19–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–13]

Notice of Proposed Information Collection: Comment Request; Request for Termination of Multifamily Mortgage Insurance

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Peter Giaquinto, Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–4162, (this is not toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.SC. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate that accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Termination of Multifamily Mortgage Insurance.

OMB Control Number, if applicable: 2502–0416.

Description of the need for the information and proposed use: This Notice requests a reinstatement of Form HUD–9807 which is used by mortgagees to notify HUD that a mortgage has been paid in full or that a mortgagor and mortgagee mutually agree to terminate the contract of mortgage insurance with HUD.

Agency Form Numbers, if applicable: Form HUD–9807.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 500, frequency of responses is 1, and the hours of response is .125 hour per response.

Status of the proposed information collection: Reinstatement, with change, or a previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 13, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–12763 Filed 5–19–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–14]

Notice of Proposed Information Collection: Comment Request; Applications for Transfer of Physical Assets

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 19, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Director, Office of Business Products, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–3000 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Applications for Transfer of Physical Assets.

OMB Control Number, if applicable: 2502–0275.

Description of the need for the information and proposed use: The form is completed and submitted to HUD by prospective purchasers of properties with mortgages either HUD-insured or HUD-held before the transfer. The information is needed by HUD for approval of a transfer of physical assets. HUD uses the information to ensure that the project is not placed in physical, financial, or managerial jeopardy by the transfer.

Agency form numbers, if applicable: HUD–92266.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 350, frequency of responses is 1, and the hours of response is 92 hours per response.

Status of the proposed information collection: Reinstatement without change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 12, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–12764 Filed 5–19–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE011563

Applicant: Hey and Associates, Inc., Libertyville, Illinois.

The applicant requests a permit to take (harass) Hine's emerald dragonfly (*Somatochlora hineana*) at locations in Will County, Illinois, for the enhancement of survival of the species in the wild.

Permit Number TE011591

Applicant: Stacey L. Halpern, University of Minnesota, St. Paul, Minnesota.

The applicant requests a permit to take (harass) Karner blue butterfly in various locations in Wisconsin. Activities are proposed for the purpose of enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: May 13, 1999.

T.J. Miller,

Acting Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–12687 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–011415

Applicant: David Frost, Plymouth, MI

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–011414

Applicant: Lawrence Castleman, Plymouth MI

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–011416

Applicant: Michael J. Leonard, Plymouth MI

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–011972

Applicant: Frank Huschitt, Grayslake, IL

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–009999

Applicant: Memphis zoo, Memphis, TN

The applicant requests a permit to transport in interstate commerce (i.e. provide funds to Smithsonian Institution's Komodo Dragon Conservation Fund) one captive-held wild-caught Komodo monitor (*Varanus komodoensis*) from the National Zoological Park for the purpose of conservation education and research to enhance the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–011658

Applicant: Gilbert Kostelec, Chardon, OH

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted trophy taken from the Lancaster Sound polar bear population, Canada for personal use.

PRT–011713

Applicant: Edward Turowski, Oxford, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted trophy taken from the Northern Beaufort Sea polar bear population, Canada for personal use.

PRT–011855

Applicant: Lewis Rupp, St. Louis, MO

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted trophy taken from the McClintock Channel polar bear population, Canada for personal use.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–12712 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Listing Priority Guidance for Fiscal Years 1999 and 2000

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We (the U.S. Fish and Wildlife Service) announce proposed guidance for assigning relative priorities to listing actions conducted under section 4 of the Endangered Species Act of 1973 as amended (Act) during fiscal years (FY) 1999 and 2000. We have returned to a more balanced listing program and have reduced the serious backlogs that remained from the 1995–96 moratorium and funding rescission. A method for prioritizing among the various listing activities is necessary to ensure that an organized system for conserving species is in place. It is extremely important for us to focus our efforts on listing actions that will provide the greatest conservation benefits to imperiled species in the most expeditious and biologically sound manner. We will no longer recognize tiers and nationwide, we will undertake all listing activities in all priority levels simultaneously; however, we will observe relative priorities among various listing actions as described in this guidance. The highest priority will be processing emergency listing rules for any species determined to face a significant and imminent risk to its well being. Second priority is the processing of final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will be funded separately from other section 4 listing actions and will no longer be subject to prioritization under Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 1999 and FY 2000 as allowed by our funding allocation for that year. Delisting activities are no longer part of the listing program and will be undertaken by the recovery program in FY 1999 and beyond.

DATES: We will accept comments on this guidance until June 21, 1999. The final FY 1998 and FY 1999 Listing Priority Guidance published on May 6, 1998 (63 FR 25502), will remain in effect until the Final FY 1999 and FY 2000 Listing Priority Guidance is published.

ADDRESSES: Send comments regarding this guidance to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mailstop ARLSQ–420, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 703–358–2171 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

We adopted guidelines on September 21, 1983 (48 FR 43098–43105), that govern the assignment of priorities to species under consideration for listing as endangered or threatened under section 4 of the Act. We adopted those guidelines to establish a rational system for allocating available appropriations to the highest priority species when adding species to the lists of endangered or threatened wildlife and plants or reclassifying threatened species to endangered status. The system places greatest importance on the immediacy

and magnitude of threats, but also factors in the level of taxonomic distinctiveness by assigning priority in descending order to monotypic genera, full species, and subspecies (or, equivalently, distinct population segments of vertebrates). However, this system does not provide for prioritization among different types of listing actions such as preliminary determinations, proposed listings, and final listings.

Serious backlogs of listing actions resulted from the 1995–96 listing moratorium and funding rescission. The enactment of Public Law 104–6 in April 1995 rescinded $1.5 million from our budget for carrying out listing activities through the remainder of FY 1995. Public Law 104–6 prohibited the expenditure of the remaining appropriated funds for final determinations to list species or designate critical habitat which, in effect, placed a moratorium on those activities. The net effect of the moratorium and reductions in funding was that our listing program was essentially shut down. The moratorium on final listings and the budget constraints remained in effect until April 26, 1996, when President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and waived the moratorium. At that time, we had accrued a backlog of proposed listings for 243 species. The extremely limited funding available to us for listing activities generally precluded petition processing and the development of proposed listings from October 1, 1995, through April 26, 1996.

When the moratorium was lifted and funds were appropriated for the administration of the listing program, we faced the considerable task of allocating the available resources to the significant backlog of listing activities. The Final Listing Priority Guidance for FY 1996 was published on May 16, 1996 (61 FR 24722). We followed that three-tiered approach until the Final Listing Priority Guidance for FY 1997 was published on December 5, 1996 (61 FR 64475). The FY 1997 Listing Priority Guidance employed four tiers for assigning relative priorities to listing actions to be carried out under section 4 of the Act. Tier 1, the highest priority, was the processing of emergency listings for species facing a significant risk to their well-being. Processing final decisions on pending proposed listings was assigned to Tier 2. Tier 3 was to resolve the conservation status of species identified as candidates and processing 90-day or 12-month administrative findings on petitions to list or reclassify species from threatened to endangered status. Preparation of proposed or final critical habitat designations and processing reclassifications were assigned lowest priority (Tier 4). We published Listing Priority Guidance for FY 1998 and 1999 on May 6, 1998 (63 FR 25502), and employed a three-tiered system. Emergency actions comprised Tier 1, all other listing actions except critical habitat designation were included in Tier 2, and critical habitat designation was the lowest priority, or Tier 3.

While operating the listing program under the Final FY 1998 and FY 1999 Listing Priority Guidance, we focused our resources on completing Tier 2 activities. Two emergency listing actions (for the San Bernardino kangaroo rat (63 FR 3835) and Jarbidge population of bull trout (63 FR 42757)) were necessary in FY 1998. During FY 1998, we made final determinations for 57 species (47 final listings and 10 withdrawals). As a result of this expeditious progress, only 84 proposed species remained at the end of FY 1998 (including 42 newly proposed species). We published petition findings for 18 species (11 90-day findings and 7 12-month findings). We proposed one species, the peregrine falcon in North America, for delisting during FY 1998. Since the end of FY 1998, and as of April 30, 1999, 34 final determinations, 17 proposed rules, 12 petition findings, 3 proposed delistings, and 2 proposed critical habitat designations have been completed. The proposed critical habitat designations, Tier 3 activities, were undertaken to comply with a court order. However, the Service did make critical habitat determinations (prudency and/or determinability decisions) for each final listing during this period and FY 1998. Only two proposed species that were included in the premoratorium backlog remain to be finalized.

Despite the return to a balanced listing program, backlogs remain. As of April 30, 1999, there are 69 proposed species awaiting final determinations, and 154 candidates awaiting resolution of their conservation status. Forty-seven species have due/overdue 90-day petition findings and 13 species have due/overdue 12-month petition findings. Various district courts and appellate courts have remanded not prudent critical habitat determinations to us for reconsideration.

As stated in the FY 1998 and FY 1999 Listing Priority Guidance, it is important to recognize that we face even greater backlogs in our responsibilities to implement other aspects of the Act. The section 7 consultation and habitat conservation planning (HCP) backlogs continue to grow. The backlog of species awaiting Recovery Plans and the shortage of recovery implementation funding make the recovery backlog most severe. We base our funding requests on the workloads faced by all activities of the endangered species program. The President's budget request for FY 1999 included a significant increase in funding for listing activities. Nevertheless, the magnitude of the other endangered species backlogs exceeds the listing backlog; therefore, the President's FY 1999 request for funding endangered species programs requested even larger increases in funding for consultation and recovery.

In enacting the Department of the Interior's FY 1999 Omnibus and Emergency Supplemental Appropriations Act (Pub. L. 105–277), Congress rejected our requests for significant resources in all three programs and provided only modest increases to the consultation, recovery, and listing programs' funding. The Department of the Interior's appropriation again includes an express limit on the amount we can spend on listing actions (including the designation of critical habitat); this year the limit is $5.756 million.

Even with the gradual reduction of the backlogs of proposed species pending final action, candidate species awaiting proposal, and petitions awaiting administrative findings, it is extremely important for us to focus our efforts on listing actions that will provide the greatest conservation benefits to imperiled species in the most expeditious and biologically sound manner. It has been longstanding policy (1983 Listing and Recovery Priority Guidelines (48 FR 43098)) that the order in which species should be processed for listing is based primarily on the immediacy and magnitude of the threats they face. We will continue to base decisions regarding the order in which species will be proposed or listed on the 1983 listing priority guidelines. We also must continue to prioritize among types of listing actions and this level of relative prioritization is the guidance provided below.

We have made this guidance applicable to FY 2000 as well to avoid any confusion over whether this guidance will remain in effect if the budget process for FY 2000 is delayed. However, when we receive our FY 2000 budget, we will review this guidance, and, if appropriate, modify or terminate it.

Proposed Listing Priority Guidance for Fiscal Years 1999 and 2000

To address the biological, budgetary, and administrative issues noted above, we submit the following proposed listing priority guidance. As with the Final Listing Priority Guidance for FY 1998 and FY 1999 issued May 6, 1998, this guidance supplements, but does not replace, the 1983 listing priority guidelines, which was silent on the matter of prioritizing among different types of listing activities.

As noted above, the Department of the Interior's FY 1999 appropriation provides no more than $5.756 million for our endangered species listing program. The $5.756 million budget for all listing activities will fall far short of the resources needed to completely eliminate all the existing listing backlogs in FY 1999. Therefore, a form of relative prioritization is necessary. We will implement the following listing priority guidance in FY 1999 and FY 2000 to aid us in our expeditious completion of the wide array of listing actions necessary to maintain a balanced listing program.

The following sections describe how we will assign relative priorities to listing actions to be carried out under section 4 of the Act. The 1983 listing priority guidelines will continue to be used to set priority among species within types of listing activities. We emphasize that the Final Listing Priority Guidance for FY 1998 and FY 1999 will remain in effect until final FY 1999 and FY 2000 guidance is issued, unless extended or canceled by future notice.

In order to continue to operate a balanced listing program, we will concurrently undertake all types of listing actions in compliance with the relative priorities described below during FY 1999. It has been essential during periods of limited listing funds to maximize the conservation benefit of listing appropriations. For the past several years, we have determined that our limited resources were best utilized to add new species to the lists rather than designating critical habitat for species already receiving full protection under the Act. Designation of critical habitat, when undertaken in the past, consumed large amounts of our listing appropriation and, in most cases, added little conservation benefit beyond that achieved when a species was listed as endangered or threatened. For this reason, we have placed higher priority on addressing imperiled species that had very limited or no protection under the Act, than on devoting limited resources to the expensive process of designating critical habitat for species already protected by the Act.

The reduced listing backlogs and the funding increase of $566,000, which we received in the listing subactivity in FY 1999, will allow us to devote some resources to critical habitat actions without an undue impact on the more important activities in the listing program. Therefore, we will dedicate $979,000 (17 percent of the total listing program funding) toward critical habitat determinations and designations during FY 1999. Progress toward critical habitat determinations and designations in FY 2000 will be governed by our listing appropriations for that fiscal year.

Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand alone critical habitat determinations will be published as notices in the **Federal Register**. We cannot estimate the number of species for which critical habitat designations will be prudent because each prudency determination is considered on a strictly biological, species-by-species basis. Although we consider the conservation benefits from critical habitat designation to be minimal for most species, we have surveyed our Regional Offices requesting them to identify species that would benefit from critical habitat designations, and are in the process of prioritizing Regional responses. We expect to undertake court ordered critical habitat determinations and designations, and non-court ordered determinations and designations for any species identified by Regional Offices as species that would benefit from critical habitat.

We are exploring how to revise our critical habitat determination and designation processes in order to streamline the process and maximize the conservation benefit provided. We will publish a separate notice in the **Federal Register** in the near future to solicit comments on how to revise the process for completing critical habitat determinations and designations. Public comment will be sought and considered in developing final guidance and policy regarding critical habitat determinations and designations.

Relative Listing Priorities

Nationwide in FY 1999 and FY 2000, we will undertake the full array of listing actions consistent with the relative priority guidance described below. However, some Regions and some Field Offices within Regions have significant backlogs of proposed species, candidates, and petitions. Therefore, additional guidance is needed to clarify the relative priorities among the various listing activities.

Completion of emergency listings for species facing a significant risk to their well-being remains our highest priority. Emergency actions take precedent over all other section 4 listing actions. With the exception of emergency actions, all other listing activities may be undertaken simultaneously. Regions should assign relative priorities for their remaining non-emergency listing actions based on the following priority levels. Processing final decisions on pending proposed listings are priority 2 actions. Priority 3 actions are the resolution of the conservation status of species identified as candidates (resulting in a new proposed rule or a candidate removal). Priority 4 actions are the processing of 90-day or 12-month administrative findings on petitions.

The processing of petitions requesting critical habitat designations and the preparation of proposed and final critical habitat determinations and/or designations will no longer be prioritized with other section 4 listing actions. Critical habitat will be conducted within a specified amount of funding which has been set aside out of the listing subactivity.

Priority 1—Emergency Listing Actions

We will immediately process emergency listings for any species of fish, wildlife, or plant that faces a significant and imminent risk to its well-being under the emergency listing provisions of section 4(b)(7) of the Act. This would include preparing a proposed rule to list the species. Every petition to list a species or reclassify a threatened species to endangered will be reviewed in order to determine whether an emergency situation exists. If the initial review indicates an emergency situation, the action will be a Priority 1 action and an emergency rule to list the species will be prepared immediately. Emergency listings are effective for 240- days. A proposed rule to list the species is usually published concurrently with the emergency rule to ensure that the final listing and full protection of the Act are established before the 240-day emergency protection expires. If the initial review does not indicate that emergency listing is necessary, processing of the petition will be assigned to Priority 4 as discussed below.

Priority 2—Processing Final Decisions on Proposed Listings

Proposed species are just one step away from receiving the most important protections under the Act. The majority

of the unresolved proposed species face high-magnitude threats. By focusing our efforts on completing final determinations, we can provide the maximum conservation benefits to the largest numbers of those species that are in greatest need of the Act's protections. As proposed listings are reviewed and processed, they will be completed through publication of either a final listing or a withdrawal of a proposed listing. Completion of a withdrawal may not appear consistent with the conservation intent of this guidance. However, once a determination not to make a proposed listing final has been made, publishing the withdrawal of the proposed listing takes minimal time and appropriations. Thus, it is more cost effective and efficient to bring closure to the proposed listing than it is to postpone the action and take it up at some later time.

Priority 3—Resolving the Conservation Status of Candidate Species (Resulting in a New Proposed Rule or a Candidate Removal)

The publication of new proposals (candidate conservation resolution) to add species to the lists of threatened and endangered species has significant conservation benefit. Pursuant to the 1983 listing priority guidelines, proposed rules dealing with taxa believed to face imminent, high-magnitude threats have the highest relative priority within Priority 3. If an emergency situation exists, the species will be elevated to Priority 1. Proposed listings that cover multiple species facing high-magnitude threats have priority over single-species proposed rules unless we have reason to believe that the single-species proposal should be processed first to avoid possible extinction. Proposed listings for species facing high-magnitude threats that can be quickly completed have higher priority than proposed rules for species with equivalent listing priorities that require extensive work to complete.

Issuance of a new proposed listing is the first formal step in the regulatory process for listing a species. It provides some protection in that all Federal agencies must ''confer'' with us on actions that are likely to jeopardize the continued existence of proposed species. The resolution of a candidate species' conservation status will be accomplished through the publication of new proposed rules or the processing of candidate removal forms (which, when signed by the Director, remove species from the candidate list). Candidate species include species petitioned for listing, for which the Service has made a warranted but precluded finding pursuant to section 4(b)(3)(iii) of the Act.

Priority 4—Processing Administrative Findings on Petitions to Add Species to the Lists and Petitions Reclassify Species

The processing of 90-day petition findings and 12-month petition findings to add species to the lists or reclassify species will be Priority 4 activities. Once a 90-day petition finding is published, we will make every reasonable effort to complete the 12-month finding in the appropriate time frame. When it is practicable for us to complete a 90-day finding within 90 days, we are statutorily afforded a 12-month period from the receipt of a petition to completion of the 12-month finding. However, in those cases in which it is not practicable for us to complete a 90-day finding within 90 days of receipt of the petition, after the 90-day finding is completed, we will require 9 months to complete a thorough biological status review and issue a 12-month finding.

Allocating Listing Resources Among Regions

We allocate the listing appropriation among our seven Regions based strictly on the number of proposed and candidate species for which the Region has lead responsibility, with the exception of providing minimum ''capability funding'' for each Region. The objective is to ensure that those areas of the country with the largest percentage of known imperiled species will receive a correspondingly high level of listing resources. Our experience in administering the Act for the past two decades has shown, however, that we need to maintain at least a minimal listing program in each Region in order to respond to emergencies and to retain a level of expertise that permits the overall program to function effectively over the longer term, thus the ''capability funding'' to each Region. In the past, when faced with seriously uneven workloads, we have experimented with reassigning workloads from heavily burdened Regions to less burdened Regions. This approach has proven to be very inefficient because the expertise developed by a biologist who works on a species' listing is useful in recovery planning and other conservation activities for that species. Additionally, biologists in a Region are familiar with other species in that Region that interact with the species proposed for listing, and that knowledge is useful in processing a final decision. For these reasons, we have found it unwise to reassign one Region's workload to personnel in another Region. Because we must maintain a listing program in each Region, Regions with few outstanding proposed listings may be able to address more lower priority listing actions, while Regions with many outstanding proposed listings will use most of their allocated funds on Priority 2 actions (finalizing proposed listings) or Priority 3 actions (completing new proposals to add species to the lists). It is the responsibility of individual Regions to recognize their workloads and backlogs and undertake priorities (1–4) as their regional workloads permit. We will provide critical habitat funding on a project by project basis in FY 1999.

Addressing Matters in Litigation

The numerous statutory responsibilities we bear under the Act do not come with an unlimited budget. We are sometimes required to make painful choices about how to prioritize carrying out those statutory responsibilities in order to make the best use of our limited resources. Under these circumstances, technical compliance with the Act with respect to one species can mean failure to comply with the technical requirements of the Act for another species. This guidance is part of a continuing effort to strive to achieve compliance with the Act in the manner that best fulfills the spirit of the Act, using our best scientific expertise.

Individuals or organizations occasionally bring suit against us for failing to carry out specific actions with regard to specific species. Many of these suits question our judgment and priorities, and seek compliance with the Act in circumstances that do not, in the judgment of the Service, lead to the best use of our resources to provide the maximum conservation benefit to all species. In many of the outstanding section 4 matters currently in litigation, the effect of what the plaintiff seeks is to require us to postpone or sacrifice conservation actions that we believe would have major conservation benefits in favor of actions that we believe would have lesser conservation benefits.

In no case will we adjust our biological priorities to reflect the threat of litigation. We have sought and will continue to seek from the courts recognition of our need to allocate our limited listing budget so as to best fulfill the spirit of the Act. We will, of course, obey any outstanding court orders.

Public Comments Solicited

We intend that any action resulting from this proposed guidance be as accurate and as effective as possible.

Therefore, any suggestions from the public, concerned governmental agencies, the scientific community, environmental groups, industry, commercial trade entities, or any other interested party concerning any aspect of this proposed guidance are hereby solicited. We will take into consideration any comments and additional information received and we will announce final guidance after the close of the public comment period and as promptly as possible after all comments have been reviewed and analyzed. The Final FY 1998 and FY 1999 Listing Priority Guidance will remain in effect until publication of the Final FY 1999 and FY 2000 Listing Priority Guidance.

Executive order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this notice easier to understand, including answers to questions such as the following: (1) Are the requirements in the notice clearly stated? (2) Does the notice contain technical language or jargon that interferes with the clarity? (3) Does the format of the notice (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the notice? What else could we do to make the notice easier to understand?

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: April 2, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 99–12783 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA–030–1610–00–25–2Z; AZPHX077416]

Arizona: Classification and Segregation of lands in Mohave County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Act of February 27, 1936 (49 Stat 1144) and the Recreation and Public Purpose Act 43 U.S.C. 869, *et seq.*, and the regulations at 43 CFR 2741.5(f), the following public land in Mohave County, Arizona has been found suitable for lease or conveyance for public park, recreational and other municipal purposes.

Gila and Salt River Meridian, Arizona

T. 20 N., R. 15 W.,
Sec. 20, Mineral Survey 4515.
Containing 20 acres more or less.

ADDRESSES: Comments may be submitted to the Kingman Field Office, 2475 Beverly Ave, Kingman, Arizona 86401.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, Realty Specialist (520) 692–4437.

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The patent or lease, when issued, will be subject to:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals.

3. A reservation of all the minerals to the U.S.

4. A reservation for Right-of-Way AZA–22645, Hualapai Mountain Road granted to Mohave County.

Upon publication of this notice in the **Federal Register**, the lands described above will be segregated from appropriation under the public land and mineral laws. 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 proposal to the address above.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

John C. Jamrog,

Program Manager, Nonrenewable.

[FR Doc. 99–12720 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–32–U

DEPARTMENT OF THE INTERIOR

Bueau of Land Management

[NM–050–1430–00]

Temporary Emergency Closure of Public Land, Socorro County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Temporary emergency closure of public Land.

SUMMARY: Notice is hereby given that effective May 12, 1999, the Socorro Field Office is implementing a temporary emergency closure of certain public land described as:

New Mexico Principal Meridian

T. 2 N., R. 4 E,
Sec. 3, lots 1 and 2
Sec. 10, lots 1, 2, 3 and 4, E½NE¼, SE¼
Sec. 11, NE¼SW¼, S½SW¼
Sec. 14, NW¼NW¼
Sec. 15, N½NE¼.

This order temporarily closes the subject land to public use and access. The closure is implemented under Title 43 Code of Federal Regulations, Subpart 8364, which authorizes the authorized officer to issue an order to close designated public land to protect persons, property, and public lands and resources. Persons that are exempt from this closure are any Federal, State or local office, or member of any organized rescue or fire fighting force in the performance of an official duty, or any person authorized or permitted in writing by the BLM. BLM personnel conducting official duties, cooperating agency personnel, and contractors authorized by the BLM are included in the exemption from this order.

DATES: This temporary emergency closure is effective May 24, 1999, and will remain in effect until rescinded by the authorized officer.

FOR FURTHER INFORMATION, CONTACT: Kate Padilla, Socorro Field Manager, or Jon Hertz, Assistant Field Manager, 198 Neel Avenue, NW, Socorro, NM 87801, telephone (505) 835–0412.

SUPPLEMENTARY INFORMATION: Violations of this closure are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 1 year. This temporary action is taken to protect persons, properties, and public land resources. Copies of the closure order and maps showing the location of the affected land are available from the Socorro Field Office.

Dated: May 12, 1999.

Jon Hertz,

Assistant Field Manager.

[FR Doc. 99–12737 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–MW–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–1310; WYW84547]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR

3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW84547 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW84547 effective January 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 99–12732 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–4041] ES–50272, Group 101, Arkansas]

Notice of Filing of Plat of Survey; Arkansas

The plat of the dependent resurvey of the north and east boundaries, portion of the south boundary, a portion of the subdivisional lines, and Township 15 North, Range 18 West, 5th Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on June 25, 1999.

The survey was requested by the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., June 25, 1999.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: May 11, 1999.

Joseph W. Beaudin,

Chief Cadastral Surveyor.

[FR Doc. 99–12733 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–4041] ES–50271, Group 102, Arkansas]

Notice of Filing of Plat of Survey; Arkansas

The plat of the dependent resurvey of the portion of the subdivisional lines, and the subdivision of section 31, Township 16 North, Range 18 West, 5th Principal Meridian, Arkansas, will be officially filed in Eastern States Springfield, Virginia at 7:30 a.m., on June 25, 1999.

The survey was requested by the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., June 25, 1999.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: May 11, 1999.

Joseph W. Beaudin,

Chief Cadastral Surveyor.

[FR Doc. 99–12734 Filed 5–19–99; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Alshabkhoun,* Civ. No. 98–C–583–S (W.D. Wi.) was lodged with the United States District Court for the Western District of Wisconsin on May 7, 1999. This case arises, and proposed Consent Decree secures relief, under the Clean Water Act, 33 U.S.C. 1251–1387.

The proposed Consent Decree would provide for prohibitions of future violations of the provision of the Clean Water Act. In addition, the decree would provide for the full restoration of the violation area to the conditions which existed prior to January 1994, as well as a $225,000 penalty under the Clean Water Act to be paid by Defendants Alshabkhoun and A&A Farms.

The Department of Justice will receive, until thirty (30) days from the date of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to the United States Department of Justice, Assistant Attorney General, Environment and Natural Resources Division, 601 D Street, N.W., Suite 8000, Washington D.C., 20004, to the attention of Lewis M. Barr, Senior Trail Counsel, Environmental Defense Section, and should refer to *United States* v. *Alshabkhoun,* Civ. No. 98–C–583–S (W.D. Wi.), and to DJ Reference No. 90–5–1–1–4485.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Western District of Wisconsin, United States Courthouse, 120 North Henry St., Madison, WI 53703–2559, during regular business hours, or copies may be requested from Lewis M. Barr at (202) 514–4206.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 99–12721 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Form (''ADSL'')

Notice is hereby given that, on December 8, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, General Datacom, Middlebury, CT; Hekimain Laboratories, Rockville, MD; Hitachi, Norcross, GA; Integrated Device Technology, Santa Clara, CA; KTL, Arnhem, The Netherlands; Marconi S.p.A., Genoa, Italy; National Semiconductor, Santa Clara, CA; Netcom Systems, Chatsworth, CA; Racal Data Group, Sunrise, FL; Raychem, Menlo Park, CA; Torrent Networking, Silver Spring, MD; VideoGate, Charlotte, NC; Yurie Systems, Landover, MD; KPN Telecom, Den Hagg, The Netherlands; STMicroelectronics, St. Genispouilly, France; and Cabletron Systems, Piscataway, NJ have been added as parties to this venture. Also, SGS-Thomson, St. Genispouilly, France; and

Ariel, Cranberry, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Asymmetrical Digital Subscriber Line Forum (''ADSL'') intends to file additional written notification disclosing all changes in membership.

On May 15, 1995, The Asymmetrical Digital Subscriber Line Forum (''ADSL'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 338058).

The last notification was filed with the Department on June 10, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12722 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on April 22, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The ATM Forum (''ATM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following organizations have joined ATM: ACACIA, Saint-Peray, France; and StorageTek (Storage Technology Corporation), Brooklyn Park, MN. The following members have changed their names: ATM Ltd. to Virata Ltd, Cambridge, United Kingdom; Hitachi Telecom to Hitachi, Norcross, GA; Information Technology Institute to Kent Ridge Digital Labs, Singapore; Integrated Telecom Technology, Inc. to IgT, Gaithersburg, MD; NASA Ames Research Center to NASA Lewis Research Center, Moffettfield, CA; Network General Corporation to Network Associates, Inc., Menlo Park, CA; Lockheed Martin Corporation to Lockheed Martin Telecommunications—Interactive Technology Center, Sunnyvale, CA. The following have changed their membership from principal to auditing members: Digital Link Corporation, Sunnyvale, CA; DiviCom Inc., Milpitas, CA; Efficient Networks, Inc., Dallas, TX; Qualcomm Incorporated, San Diego, CA; Switched Network Technologies, Inc., Plymouth, MN; Linmor Technologies, Inc., Nepan, Ontario, CANADA; and Xedia Corporation, Littleton, MA. The following have changed their membership from auditing to principal members: AMCC (Applied Micro Circuits Corporation), San Diego, CA; Fondazione Ugo Bordoni, Roma, Italy; Audiocodes Ltd, Yehuda, Israel; Secant Network Technologies, Inc., Triangle Park, NC; NDS, Hampshire, United Kingdom; Ficon Technology, Woodbridge, NJ; and Booz Allen & Hamilton, McLean, VA. Also, Allied Telesyn Int'l Corp., Morrisville, NC; Apple Computer, Inc., Cupertino, CA; Asahi Chemical Industry, Tokyo, Japan; Ascom AG, Bern, Switzerland; Bull, Echirolles Cedex, France; CompuServe, Inc., Columbus, OH; David Sarnoff Research Center, Princeton, NJ; Digital Equipment Corp., Littleton, MA; Exar Corporation, Fremont, CA; First Virtual Corporation, Santa Clara, CA; Honeywell Inc., Richardson, TX; KDD, Inc., Tokyo, Japan; Worldcom Inc., Tulsa, OK; National Semiconductor Corporation, Santa Clara, CA; Natural Microsystems Corp., Framingham, MA; Netrix Corporation, Herndon, VA; Network Systems Corp., Minneapolis, MN; Novell, Inc., San Jose, CA; Ollivetti Research Ltd., Cambridge, United Kingdom; Panduit Corporation, Tinley Park, IL; Racal-Datacom, Inc., Sunrise, FL; Scientific-Atlanta, Inc., Norcross, GA; SGS-Thomson Microelectronics, St. Genis Pouilly, France; Siecor Corporation, Hickory, NC; Spectran Specialty Optics Co., Avon, CT; Standard Microsystems Corporation, Irvine, CA; Symbionics Ltd., Cambridge, United Kingdom; Telenetworks, Petaluman, CA; Telstra Corp., Clayton, Australia; Texas Instruments, Inc., Sherman, TX; Toray, Inc., Nagoya, Japan; Unisource Business Networks, Stockholm, Sweden; Verilink Corporation, San Jose, CA; VLSI Technololgy, Inc., San Jose, CA; Whittaker Communications Incorporated, Santa Clara, CA; Boston Optical Fiber Inc., Westborough, MA; Hekimian Laboratories Inc., Rockville, MD; Microm Communications Corp., Simi Valley, CA; Asahi Glass Co., Ltd., Tokyo, Japan; Softcom Microsystems, Inc., Fremont, CA; Leviton Telcom, Botheil, WA; USC/Information Sciences Institute, Arlington, VA; Vertel Corporation, Woodland Hills, CA; Global One, Reston, VA; LGIC, Anyang, Korea; CellIT Inc., Miami, FL; and Virginia Technology University, Blacksburg, VA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ATM intends to file additional written notification disclosing all changes in membership.

On April 19, 1993, ATM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on July 24, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 30, 1997 (62 FR 51145).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12726 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on February 22, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PartNet Inc., Salt Lake City, UT; E-lysium Transaction Systems, Inc., Miami, FL; ClearCommerce Corporation, Austin, TX; Papricom Technologies, Netanya, Israel; Baxter International, Deerfield, IL; Ariba Technologies, Sunnyvale, CA; General Magic, Sunnyvale, CA; and NEC Corporation, Littletown, MA have joined the Consortium as Portfolio members. MarketFirst Software, Mountain View, CA has joined the Consortium as a Core member. Also, NetAlive Inc., Redwood

City, CA; Nikko System Center, LTD, Los Altos, CA; Smart Valley, Santa Clara, CA; and Unwired Planet, Inc., Redwood Shores, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on January 22, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12730 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Corporation for National Research Initiatives—Cross Industry Working Team Project

Notice is hereby given that, on January 20, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Corporation for National Research Initiatives (''CNRI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Committee disclosing changes in the membership of the Cross Industry Working Team Project (''XIWT''). The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional party has become a Primary Member of XIWT: Kaiser Permanente, Pasadena, CA. Apple Computer, Cupertino, CA; NEC USA, Mellville, NY; and Silicon Graphics, Mountain View, CA have been dropped as Primary Members of XIWT. Also, Fujitsu, Raleigh, NC; Prodigy, White Plains, NY; 3Com, Santa Clara, CA; and RealNetworks, Seattle, WA have been dropped as Associate Members of XIWT.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CNRI intends to file additional written notifications disclosing all changes in membership.

On September 28, 1993, CNRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 17, 1993 (58 FR 66022).

The last notification was filed with the Department on February 11, 1998. A notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12724 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum (''ECTF'')

Notice is hereby given that, on November 19, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Enterprise Computer Telephony Forum (''ECTF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Telephony LLC, Altadena, CA; Philips Speech Processing, Hilversum, The Netherlands; Nokia Telecommunications, Helsinki, Finland; and Nortel Networks, Nashville, TN have become Principal Members. Converse Network Systems, Andover, MA; BST Communication Technology, GuangZhou, CHINA; ERNI Components, Chester, VA; Nitsuko Corporation, Cupertino, CA; Xiox Corporation, Manchester, NH; and Systems Integration Ltd., Aldermaston, England have become Auditing Members. Also, Nortel, Nashville, TN has been dropped as a Principal Member. Philips Speech Processing, Hilversum, The Netherlands; and Nokia Telecommunications, Helsinki, Finland have been dropped as Auditing Members.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Enterprise Computer Telephony Forum (''ECTF'') intends to file additional written notification disclosing all changes in membership.

On February 20, 1996, Enterprise Computer Telephony Form (''ECTF'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on March 20, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4706).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12725 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fuel Cell Commercialization Group

Notice is hereby given that, on March 19, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Fuel Cell Commercialization Group (''FCCG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Florida Municipal Power Agency, Orlando, FL has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Fuel Cell Commercialization Group (''FCCG'') intends to file additional written notification disclosing all changes in membership..

On September 21, 1990, Fuel Cell Commercialization Group (''FCCG'') filed its original notification pursuant to

Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 16, 1991 (56 FR 51917).

The last notification was filed with the Department on April 2, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 24, 1998 (63 FR 39901).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12727 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum (''GURF'')

Notice is hereby given that, on March 9, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Gas Utilization Research Forum (''GURF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Canadian Petroleum Ltd., Calgary, Alberta, Canada; and Energy International, Pittsburgh, PA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Gas Utilization Research Forum (''GURF'') intends to file additional written notification disclosing all changes in membership. Information regarding membership in ''GURF'' may be obtained from Dennis Winegar, Vice President, International Marketing & Business Development, Texaco Global Gas and Power, 111 Bagby Street, Houston, TX 77002, Telephone (713) 752–7654, Fax (713) 752–4681.

On December 19, 1990, Gas Utilization Research Forum (''GURF'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** to Section 6(b) of the Act on January 16, 1991 (56 FR 1655).

The last notification was filed with the Department on February 2, 1999. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12728 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Health Informatics Initiative Consortium

Notice is hereby given that, on January 26, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Health Informatics Initiative Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing its intention to disband. Specifically, as of November 30, 1998, said project was completed and the consortium and its steering committee have disbanded. The Participation Agreement, which formed the basis for all authority and action by the consortium, is no longer in effect. Accordingly, The Koop Foundation Incorporated (KFI), as convener, has no further legal authority to act with respect to this project and has no ownership in any product of the project. KFI will continue to maintain its books and records relating to its activities and responsibilities as convener. KFI will respond to any questions concerning its responsibilities under the Participating Agreement. KFI is aware of no legal authority which would assign to KFI any present or future rights, privileges, duties or responsibilities with respect to any aspect of this project.

On March 30, 1995, Health Informatics Initiative Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 1995 (60 FR 33432).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12729 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—United Technologies Research Center (''UTRC'')

Notice is hereby given that, on March 11, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), United Technologies Research Center (''UTRC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, United Technology Corporation, acting through United Technologies Research Center (''UTC''), East Hartford, CT; The University of Connecticut (''UConn''), Storres, CT; Elf Aquitaine (''Elf''), Paris La Defense Cedex, France; Ford Motor Company (''Ford''), Dearborn, MI; Tyco Printed Circuit Group Inc. (''Tyco''), Stafford Springs, CT; and Minnesota Mining and Manufacturing (''3M''), Austin, TX have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Untied Technologies Research Center (''UTRC') intends to file additional written notification disclosing all changes in membership.

On July 29, 1996, United Technologies Research Center (''UTRC'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 20, 1996 (61 FR 43077).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–12723 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; extension of a currently approved collection; application for

employment/Federal Bureau of Investigation.

The Department of Justice, Federal Bureau of Investigation, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. The proposed information collection was previously published in the **Federal Register** on March 16, 1999, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until June 21, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item contained in the notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Application for Employment/Federal Bureau of Investigation.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: FD–140. Federal Bureau of Investigation, U.S. Department of Justice.

(4) Affected public who will be required to respond, as well as a brief abstract: Primary: Individuals of households. Other: None. The Application for Employment, FD–140, is utilized to collect pertinent background information on all applicants for FBI positions. The FD–140 is issued in lieu of Standard Form 86, Questionnaire for National Security Positions, to address suitability and security concerns beyond the scope of the SF–86. The Authority to Release Information, FD–406, is also incorporated into the FD–140 to obtain necessary records.

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: Approximately 50,000 respondents, at 8 hours per response (including record-keeping). Total annual burden hours requested 400,000.

(6) An estimate of the total public burden (in hours) associated with the collection: Approximately 400,000 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1590.

Dated: May 17, 1999.

Robert B. Briggs,

Clearance Officer, Department of Justice.

[FR Doc. 99–12701 Filed 5–19–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Public Conferences for Persons Interested in Self-Rescuer Protection and Mine Emergency Preparedness in the Mining Industry

AGENCY: Mine Safety and Health Administration and the National Institute for Occupational Safety and Health.

ACTION: Notice of conferences.

SUMMARY: The Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) will host a conference on issues and concerns related to self-rescuer protection in the mining industry. In addition, MSHA will host a conference on mine emergency preparedness. The conferences will run concurrently. The purpose of these conferences is to provide an opportunity for an exchange of information between the Agencies, self-rescuer manufacturers, mining industry representatives, labor representatives, and those involved in all areas associated with mine emergency preparedness.

DATES: The conferences will run concurrently beginning Tuesday, June 15 and continue through Thursday, June 17, 1999.

ADDRESSES: The conferences will be held at the National Mine Health and Safety Academy located at 1301 Airport Road, Beaver, West Virginia (near Beckley, West Virginia).

FOR FURTHER INFORMATION CONTACT: Mr. Dan Conley, MSHA, at (703) 235–1358, or Mr. Robert Stein, NIOSH, at (304) 285–5907.

SUPPLEMENTARY INFORMATION: Tentative Self-Rescuer Conference Topics are: NIOSH/MSHA self-rescuer certification & quality assurance process; NIOSH/MSHA long term self-rescuer field evaluation program; NIOSH/MSHA self-rescuer service-life plans and conditions of use requirements; NIOSH/MSHA self-rescuer reliability concerns and MSHA's revised inspection procedures; and, Discussions and presentations on other mine rescue and escape technologies.

Tentative Mine Emergency Preparedness Conference Topics are: Review of material from the first Mine Emergency Preparedness Conference of January 1995; Discussion of background and research accomplishments to address the issues identified during this first conference; Discussion on short term objectives MSHA has undertaken to address the identified issues, including an in-depth review of MSHA policy up-dates and changes related to mine emergency preparedness; and, Discussion on long term objectives MSHA should consider undertaking to improve and strengthen mine emergency preparedness.

The conferences will be open to all interested parties. MSHA and NIOSH will provide participants an opportunity to ask questions; submit written comments they wish to have included in the record; and provide individualized input into the changes to the applicable regulations and policies

through work-shops and break-out sessions. We encourage manufacturers and distributors of self-rescue devices, mine rescue apparatus, and other equipment that can be utilized to aid in mine escape, evacuation, rescue, and recovery operations to attend. We will make space available for displays of such items at no cost to the manufacturer or distributor.

If you are interested in attending either conference, you should register in advance. You can find conference information, including a registration form and tentative topics, at the MSHA Internet site (http://www.msha.gov/EVENTS/SCSR/INTRO.HTM). To register, you may mail or fax a completed registration form to (304) 256–3251 or contact Cheryl Hoffman by electronic mail at *CDHOFFMA@MSHA.GOV*. Room and board are available at the National Mine Health and Safety Academy (the Academy). Contact the Academy at (304) 256–3252 for details. If you wish to request space for a display please contact Mrs. Jan Keaton, from the Academy, at (304) 256–3234.

Dated: May 13, 1999.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Dated: May 17, 1999.

Marilyn A. Fingerhut,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 99–12749 Filed 5–18–99; 1:33 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

New Project Manager Orientation Course

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and request for cooperative agreement applications.

SUMMARY: The Occupational Safety and Health Administration (OSHA) occasionally awards funds to nonprofit organizations to produce short-term training for personnel whose work furthers the responsibilities of the Assistant Secretary for Occupational Safety and Health. This notice announces the Agency's desire to enter into a cooperative agreement with an educational institution currently providing on-site consultation under section 21(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670) to develop, pilot, and produce an orientation course for new Project Managers of 21(d) on-site consultation projects. The notice states the basics of the desired agreement and provides information about how to get detailed agreement application instructions. Section 21(b) of the Occupational Safety and Health Act authorizes this action.

DATES: Applications must be postmarked by June 30, 1999. The agreement period will run from August 1, 1999, through July 31, 2001.

ADDRESSES: Completed applications must be submitted in triplicate to the U.S. Department of Labor—OSHA, Directorate of Federal-State Operations, Office of Cooperative Programs, 200 Constitution Avenue, NW, Room N3700, Washington, DC 20210, marked ATTENTION: E. Tyna Coles.

FOR FURTHER INFORMATION CONTACT: E. Tyna Coles, Director, Office of Cooperative Programs, 200 Constitution Avenue, NW, Room N3700, Washington DC 20210, telephone (202) 693–2213, FAX (202) 693–1671, e-mail *Tyna.Coles@osha-no.osha.gov*.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of the Agreement?

The purpose of the agreement will be to develop a self-study course to orient 21(d) Consultation Project Managers, especially new Project Managers, with basic knowledge and management techniques of the OSHA on-site consultation program. The course should cover all of the objectives listed in the document ''Project Manager Orientation Course—Statement of Work'' which will be sent to prospective applicants along with the detailed agreement package instructions.

Who Is Eligible To Apply?

Only those educational institutions which currently deliver 21(d) on-site consultation services under cooperative agreements with OSHA.

What Can Agreement Funds Be Spent On?

- Developing a chart to illustrate the major goals and milestones of this project. (A preliminary draft of the chart must be included with the agreement application.)
- Identifying sources of course materials.
- Developing trial and finished course materials.
- Formatting the course materials electronically.
- Designing and piloting the orientation course.
- Providing four training sessions.

Are There Restrictions on How Agreement Funds Can Be Spent?

OSHA will not provide funding for the following activities.

1. Any activities inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.

2. Activities inconsistent with the goal and objectives of the OSHA 21(d) Consultation Program.

3. Production, publication or reproduction of training and educational materials, including programs of instruction, which have not been approved by OSHA.

4. Activities which provide assistance to workers in arbitration cases or other actions against employers, or which provide assistance to employers and/or workers in the prosecution of claims against Federal, State or local governments.

5. Activities directly or indirectly intended to generate membership in the agreement recipient's organization.

What Other Requirements Are There?

1. *OSHA review of educational materials.* OSHA will review all educational materials produced by the awardee for historical and technical accuracy during development and before final production of the course as an interactive CD–ROM.

2. *OMB and regulatory requirements.* The awardee will be required to comply with the following documents.

- OMB Circular A–133, which provides information about audit requirements.
- 21 CFR part 95, which covers grant requirements for non-profit organizations, including universities. These are the Department of Labor regulations implementing OMB Circular A–110.
- OMB Circular A–21, which provides information about allowable and unallowable costs for educational institutions.

3. *Certifications.* All applicants will be required to certify to a drug-free workplace in accordance with 29 CFR part 98, to comply with the New Restrictions on Lobbying published at 29 CFR part 93, to make a certification regarding the debarment rules at 29 CFR part 98, and to complete a special lobbying certification.

4. *Matching share.* There are no matching share requirements for this cooperative agreement. The development and implementation of this course will be accomplished using only federal funds.

How Will Applications Be Reviewed and Rated?

OSHA personnel will review and evaluate each application. Following the review process, OSHA staff may conduct an on-site evaluation of highly rated applicants before making a recommendation. The final selection will be made by the Assistant Secretary for Occupational Safety and Health.

The following factors will be used in the review of applications.

1. *Institutional Experience in Training Government Managers.* Reviewers will look for evidence that the university offers seminars in public administration or other nontraditional teaching methods (e.g., self-study) to motivate and train adults, e.g., government employees or executives, law enforcement personnel.

2. *Qualifications of Training Personnel.* Reviewers will look for evidence that the personnel proposed have training and experience in curriculum design and adult learning theory.

3. *Program Design.* Reviewers will look at the proposed program and budget charts for evidence that the project can be completed in the time alloted, that there will be adequate communication among the course designers, OSHA, and consultation projects throughout the project, and that the budget is reasonable and in compliance with instructions.

How Much Money Is Available for the Course?

$250,000 has been budgeted for this effort.

How Long Will the Agreement Run?

The agreement period is for 24 months, from August 1, 1999, through July 31, 2001. As with all cooperative agreements, either party may terminate the agreement on 30 days notice.

How Do I Get an Agreement Application Package?

Agreement application packages may be requested from the Office of Cooperative Programs at (202) 693–2213.

When and Where Must I Send the Application?

Send three copies of each application to: Attention: E. Tyna Coles, U.S. Department of Labor—OSHA, Directorate of Federal-State Operations, Office of Cooperative Programs, 200 Constitution Avenue, NW, Room N3700, Washington, DC 20210.

All applications must be postmarked by Monday, June 30, 1999. Applicants are encouraged to include samples of relevant previous work, but one copy of any sample will be sufficient.

How Will I Be Told If My Application Was Selected?

You will be notified in writing that you were or were not selected. Notice of selection will not constitute approval of an application as submitted. OSHA will negotiate with representatives of the selected applicant to enter into a 21(b) cooperative agreement which will cover the responsibilities of both parties, including program components, budget and administrative systems. If negotiations do not result in an acceptable submission, the Assistant Secretary for Occupational Safety and Health reserves the right to terminate the negotiation process and decline to fund the proposal.

Signed at Washington, DC, this 10th day of May, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–12781 Filed 5–19–99; 8:45 am]

BILLING CODE 4510–26–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Opera Section (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on June 23–24, 1999. The panel will meet from 9:00 a.m. to 5:30 p.m. on June 23 and from 9:00 a.m. to 5:00 p.m. on June 24, in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. A portion of this meeting, from 3:15 p.m. to 5:00 p.m. on June 24, will be open to the public for a policy discussion.

The remaining portions of this meeting, from 9:00 a.m. to 5:30 p.m. on June 23rd and from 9:00 a.m. to 3:15 p.m. on June 24th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: May 14, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–12703 Filed 5–19–99; 8:45 am]

BILLING CODE 7537–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Twenty-First Annual Meeting of the Board of Directors; Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, May 24, 1999.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 220–2372.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 99–12914 Filed 5–18–99; 3:13 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 AND 50–446]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Units 1 and 2; Correction to Federal Register Notice

The U.S. Nuclear Regulatory Commission (the Commission) issued a Notice of Exemption published in the

Federal Register on May 12, 1999 (64 FR 25520) to Texas Utilities Electric Company (the licensee), holder of Facility Operating Licenses No. NPF–87 and No. NPF–89, which authorizes operation of the Comanche Peak Steam Electric Station, Units 1 and 2. The Commission granted the licensee an exemption from the requirements of Title 10 of the *Code of Federal Regulations*, Part 50, Appendix K, to allow emergency core cooling system evaluation model assumptions to be conducted at no less than 1.01 times licensed power level when the qualification of power measurement uncertainty can be justified by the use of the Caldon Leading Edge Flowmeter System instrumentation.

Correction is being made to the first column, last paragraph on page 25522. The paragraph, which reads, in part, ''* * * granting of this exemption will have no significant effect on the quality of the human environment (64 FR This exemption is effective upon issuance.'' should read as follows: ''* * * granting of this exemption will have no significant effect on the quality of the human environment (64 FR 23380). This exemption is effective upon issuance.''

Dated at Rockville, Maryland, this 14th day of May 1999.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–12716 Filed 5–19–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board meeting: June 29–30, 1999—Beatty, NV: Review of the Department of Energy's (DOE) Analysis of a Design for a Potential Repository at Yucca Mountain, Nevada, and of Scientific Studies Undertaken at the Yucca Mountain Site

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board (Board) will hold a meeting on Tuesday and Wednesday, June 29 and 30, in Beatty, Nevada, to review the U.S. Department of Energy's (DOE) analysis comparing possible repository designs and to hear reports on the status of scientific studies related to the characterization of a potential repository site at Yucca Mountain, Nevada. The meeting is open to the public. The Board will host an informal gathering from 7:00 to 8:00 p.m. on Tuesday, June 29, for members of the public who would like to meet and talk with Board members. Interested parties also are invited to join the Board for coffee from 7:15 to 7:55 a.m. on Wednesday, June 30.

The meeting and associated events will be held at the Beatty Community Center, 200 A Avenue South, Beatty, Nevada 89003, (tel) 702–553–2050. The Board meeting sessions will begin at 9:00 a.m. on June 29 and at 8:00 a.m. on June 30.

The meeting sessions on June 29 will focus on the results of the DOE's License Application Design Selection project, which compares several alternative designs for a potential repository at Yucca Mountain. Presentations will include discussions of the criteria and assumptions that were used to compare the designs as well as issues that could affect repository design such as the use of ventilation to cool repository tunnels. Other presentations on that day will include updates on the status of the DOE's draft site-suitability criteria and of site-characterization efforts at Yucca Mountain.

The status of scientific studies being conducted at the Yucca Mountain site be the subject of the June 30 session. Presentations will be made on tests being conducted to obtain information on the unsaturated zone, the saturated zone, and the effects of heat on the mountain. Also on the agenda for June 30 are updates on the status of the Total System Performance Assessment (the analytical tool used to predict the performance of the potential repository) and of laboratory tests being conducted to determine the corrosion rates of potential waste package materials.

The Board is providing several opportunities for public comment at the Beatty meeting. Tie will be set aside in the late morning and at the end of the session on June 29 and at the end of the session on June 30 for comments from the public. Those wanting to speak are encouraged to sign the ''Public Comment Register'' at the check-in table. Depending on the number of requests, a time limit may be imposed on oral statements, but written comments of any length may be submitted for inclusion in the record of the meeting. Interested parties also may submit questions in writing to the Board. As time permits, written questions will be answered during the sessions on both days.

A detailed agenda will be available approximately one week before the meeting. Copies of the agenda can be requested by telephone or obtained from the Board's Web site at www.nwitrb.gov. Transcripts of this meeting will be available on the Board's Web site, via e-mail, on computer disk, and on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning on July 19, 1999. For further information, contact the NWTRB, Karyn Severson, External Affairs, 2300 Claredon Boulevard, Suite 1300, Arlington, Virginia 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987. Its purpose is to evaluate the technical and scientific validity of activities undertaken by the DOE related to managing the disposal of the nation's spent nuclear fuel and high-level radioactive waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, to determine its suitability as the location of a potential repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

Dated: May 14, 1999.

Michael Carroll,

Deputy Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 99–12736 Filed 5–19–99; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23837; 812–11526]

Allegiance Telecom, Inc.; Notice of Application

May 13, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY: Applicant requests an order exempting it from all provisions of the Act until the earlier of one year from the date the requested order is issued or the date applicant no longer may be deemed to be an investment company.

FILING DATE: The application was filed on March 2, 1999, and amended on April 19, 1999, and on May 11, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 June 7, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW, Washington, DC 20549–0609. Applicant, 1950 Stemmons Freeway, Suite 3026, Dallas, TX 75207.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Preference Branch, 450 5th Street NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is a Delaware corporation formed in 1997. Applicant, through its wholly-owned subsidiaries, is a facilities-based provider of telecommunications services. Applicant owns and operates certain portions of the telecommunications networks, primarily telecommunication switches, through which applicant provides telecommunications services to its customers (''Service''). Applicant is actively engaged in deploying telecommunications networks in 24 of the largest metropolitan markets in the United States through which it plans to provide an integrated set of telecommunications services to business, government and other institutional users.

2. To finance the acquisition and construction of its network facilities in each of its target markets, applicant requires a significant amount of capital. In addition, as a key element of its strategy, applicant has developed a financing plan predicated on pre-funding each market's expansion to the point at which such market's operating cash flow is sufficient to fund both the operating costs (including working capital, debt service and cash flow deficits) and capital expenditures. Consistent with this financing plan, applicant has raised capital whenever it is available on attractive terms and may do so in the future in order to pre-fund intended markets.

3. As of March 31, 1999, applicant had invested approximately 232.4 million in property, plant and equipment, and had approximately $351.9 million invested in short-term U.S. Government securities, money market funds, certificates of deposit, and commercial paper rated A–1/P–1 (the ''Qualified Investments''). Applicant currently has allocated a significant portion of its investments to Government securities. Applicant states that it holds Qualified Investments with the objective of preserving capital and maintaining liquidity to meet daily cash needs.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the act, an issuer is an investment company if it ''is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.'' Section 3(a)(2) of the Act defines ''investment securities'' to include all securities except government securities, and securities which are issued by majority-owned subsidiaries of the owner which are not investment companies, and are not relying on the exception from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

2. Applicant states that, pending utilization in the development of the Service, capital raised by applicant may be held in ''investment securities'' within the meaning of section 3(a)(2) of the Act. As of March 31, 1999, approximately 56% of applicant's total assets consisted of Qualified Investments. Applicant states, therefore, that it may come within the definition of investment company in section 3(a)(1)(C) of the Act.

3. Section 6(c) of the Act permits the SEC to exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an exemption under section 6(c) from all provisions of the Act until the earlier of one year from the date the requested order is issued or the date applicant ceases to be an investment company. Applicant believes that within this period it will have sufficient expenditures of funds on the development and operation of the Service to cure its temporary status under section 3(a)(1)(C) of the Act.

5. Applicant states that, as a company that was created to develop competitive local exchange networks in major metropolitan areas through the U.S., applicant is not the type of entity that was intended to be governed by the Act. Applicant states that, since its inception, its principal activities have been primarily the procurement of governmental authorizations, the acquisition of telecommunications equipment and facilities, the hiring of management and other key personnel, the raising of capital, the development, acquisition and integration of operations support systems and other back office systems and the negotiation of interconnection agreements with incumbent local exchange carriers. Applicant thus asserts that the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Conditions

Applicant agrees that the requested exemption will be subject to the following conditions:

1. Applicant will not purchase or otherwise acquire any investment securities other than Qualified Investments.

2. Applicant will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding, or trading in securities.

3. Applicant will allocate and utilize its accumulated cash and securities for the purpose of funding the development of its networks and competitive local exchange business.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–12664 Filed 5–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41396; File No. SR–BSE–99–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Minor Rule Violation Plan

May 13, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 26, 1999, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend the Summary Fine Schedule of the Minor Rule Violation Plan through the addition of violations of Rule 11Ac1–4 under the Act (''Display Rule'').[3] The text of the proposed rule change is available at the Office of the Secretary, BSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Minor Rule Violation Plan (''Plan'') to include violations of the Display Rule.[4] By amending the Summary Fine Schedule of the Plan, the Exchange will address certain violations of the Display Rule, which are deemed to be inadvertent, or without special aggravating or intentional purposes, through the use of fines rather than a full disciplinary procedure. Where violations of the Display Rule are intentional, however, the Exchange is not limited nor precluded from initiating more formal Disciplinary Proceedings under Chapter XXX or imposing sanctions of more or less than the recommended fines (not to exceed $2,500 in any event).

The Plan as amended would provide that failure to display a customer limit order immediately (no later than 30 seconds) after receipt (without a specific exclusion provided by the Display Rule) will result in a written warning for the initial offense; a $50 fine for the second offense; and a $100 fine for subsequent offenses.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[5] in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Additionally, the BSE believes the proposal is consistent with Section 11A(a)1(C)(iii) and (iv) of the Act.[6] In adopting Section 11A, Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market.[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 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 number SR–BSE–99–04 and should be submitted by June 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–12665 Filed 5–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41397; File No. SR–NYSE–97–18]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Specialists' Entry of Bids and Offers in Electronic Communications Networks and Other Market Centers

May 13, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 2,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.11Ac1–4.

[4] 17 CFR 240.11Ac1–4.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1(a)(1(C)(iii) and (iv).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On November 19, 1997, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On February 10, 1999, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change as amended from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend NYSE Rule 104.10 (''Dealings By Specialists'') to place certain restrictions on specialists' entry of bids and offers in ECNs.[5] Below is the text of the proposed rule change. Proposed additions are italicized.

Rule 104

Dealings by Specialists

* * * * *

No change .10(1)–(9).

.10 *(10) A specialist's bid or offer in a specialty stock on the Exchange may not be inferior to the specialist's market maker bid or offer disseminated by an electronic communications network (as that term is defined in Securities and Exchange Commission Rule 11Ac1–1(a)(8)) or any other market center. A specialist may not disseminate a market maker bid or offer on another market center or electronic communications network at a price at which Exchange rules would preclude dissemination of such bid or offer on the Exchange.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 104.10 to indicate that a specialist[6] has a duty to quote his or her best bid and offer on the Exchange. Under the proposed rule, a specialist's bid or offer for a specialty stock on the Exchange cannot be inferior to his or her bid or offer made in an ECN or another market center.[7] Thus, if a specialist places a bid or offer into an ECN or on another market center at a price superior to the then disseminated best bid or offer on the Exchange, the specialist would be required to communicate[8] such price to the Exchange.

The Exchange's Specialist Job Description requires a specialist, when acting as agent for orders entrusted to him or her, ''to ensure the timely and best possible execution in accordance with the terms of the order and the rules and policies of the Exchange.''[9] The Exchange believes that because a specialist is required to make markets on the Exchange, the specialist's activities should be focused primarily on committing capital and market-making on the Floor of the Exchange. The Exchange maintains that the specialist must make available on the Exchange his or her best bid or offer in the stocks in which he or she specializes.

II. Primary Duties

(A) *Agency Function*—In view of the specialist's central position in the Exchange's continuous two-way agency auction market, a specialist should:

Act as agent on behalf of orders entrusted to the specialist, hold the interests of such orders above the specialist's own, and properly represent each order, regardless of its size or source, in the marketplace to ensure the timely and best possible execution in accordance with the terms of the order and the rules and policies of the Exchange.

See also Securities Exchange Act Release No. 25398 (February 26, 1988) 53 FR 7458 (March 8, 1988), and Securities Exchange Act Release No. 26523 (February 7, 1989) 54 FR 6631 (February 13, 1989), the notice and order approving the revised Specialist Job Description. In addition, in November 1989, the Commission approved a proposal further revising the Specialist Job Description. *See* Securities Exchange Act Release No. 27427 (November 7, 1989), 54 FR 47628 (November 15, 1989).

In addition, the proposed rule change would prohibit a specialist from entering a bid or offer for a specialty stock in an ECN or on another market center at a price variation that specialist would not be permitted to quote or trade under Exchange rules. The Exchange represents that this proposed provision will facilitate the specialist's compliance with the obligation to make his or her best bid and offer on the Exchange Floor. If the specialist placed a superior priced bid or offer in an ECN[10] or other market center at a variation that could not be quoted or traded on the Exchange, the Exchange believes that the specialist would be unable to satisfy his or her specialist obligations (*i.e.*, trading at his or her best bid or offer with contra-side marketable orders received on the Exchange). Alternatively, if the specialist placed in an ECN or other market center an inferior bid or offer at a variation not traded on the Exchange which was subsequently executed on the ECN or other market center, the specialist, consistent with his or her

[3] In Amendment No. 1, NYSE modified references the Exchange has made to the Commission's Quote Rule.

[4] In Amendment No. 2, NYSE removed all references to the Commission's Quote Rule. NYSE also eliminated its proposed exemption to the proposed restriction on specialists, relating to trading orders entered into an electronic communications network (''ECN'') or other market centers by an upstairs trading operation conducted by a specialist member organization.

[5] An ECN is defined in paragraph (a)(8) of Rule 11Ac1–1 under the Act.

[6] The Exchange defines ''specialist'' as an individual specialist on the floor rather than specialist member organizations. Per telephone conversation between Donald Siemer, Director, Market Surveillance, NYSE, Betsy Minkin, Senior Project Specialist, Market Surveillance, NYSE, Jeffrey Schwartz, Special Counsel, Market Regulation, SEC, and Heather Traeger, Attorney, Market Regulation, SEC on May 12, 1999.

[7] ''Another market center'' means a registered national securities exchange or registered national securities association.

[8] The Exchanges views ''communicate'' in this context to require the specialist to make the price, whether bid or offer, available for execution on the Exchange. In the exchange's view, the specialist would then be liable for executions at this price on both the Exchange and on the ECN or other market center. Per telephone conversation between Donald Siemer, Director, Market Surveillance, NYSE, Betsy Minkin, Senior Project Specialist, Market Surveillance, NYSE, Jeffrey Schwartz, Special Counsel, Market Regulation, SEC, and Heather Traeger, Attorney, Market Regulation, SEC on May 12, 1999.

[9] The Specialist Job Description is found in the NYSE's 1997 Floor Official Manual, Section 9. Section 9(II)(A) provides:

[10] The Exchange views the proposal as applying only to specialists when they add liquidity on an ECN or another market center (*i.e.*, entering a new bid or offer) and not when they remove liquidity (*i.e.*, hitting a pre-existing bid or offer) or enter ''fill-or-kill'' orders. Per telephone conversation between Donald Siemer, Director, Market Surveillance, NYSE, Betsy Minkin, Senior Project Specialist, Market Surveillance, NYSE, Jeffrey Schwartz, Special Counsel, Market Regulation, SEC, and Heather Traeger, Attorney, Market Regulation, SEC on May 12, 1999.

responsibilities as agent, would be required to satisfy any superior-priced (higher bid or lower offer) orders on his or her book at the price of his or her trade off the Exchange. This could not be done at a price variation that could not be traded or quoted on the Exchange.

This proposed rule change would apply to all bids and offers made by a member acting as a specialist on the Floor of the Exchange in any of the specialty stocks in which he or she is registered.

2. Statutory Basis

The Exchange states that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) [11] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and in general, to protect investors and the public interest. The Exchange believes the proposed amendment to Rule 104.10 accomplishes these ends in that it would ensure that orders entered on the Exchange would be able to receive the best price that the specialist was quoting.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange represents that the proposed rule change will impose no 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

[11] 15 U.S.C. 78f(b)(5).

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. In particular, the Commission is seeking comment on the following issues:

1. Whether the proposed provision prohibiting specialists to quote in pricing increments not permitted on the Exchange would have an anti-competitive impact on specialists or other trading mechanisms and if so, whether the anti-competitive impact is necessary to ensure specialists quote their best prices publicly.

2. What impact this proposal is likely to have when the markets begin quoting in decimals.

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–NYSE–97–18 and should be submitted by July 6, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–12666 Filed 5–19–99; 8:45 am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Final Environmental Impact Statement; Colorado Airspace Initiative (CAI)

AGENCY: Federal Aviation Administration (FAA), Transportation.

ACTION: Extension of the time period during which the FAA will receive public comment on its Notice of Availability and Intent to Adopt the Final Environmental Impact Statement for the Colorado Airspace Initiative.

SUMMARY: On Tuesday, April 27, 1999, the Federal Aviation Administration provided notice that is was recirculating and intended to adopt the Final Environmental Impact Statement (FEIS) prepared by the Air National Guard (ANG) for the modification of existing, and the establishment of new military training airspace areas in Colorado, hereinafter known as the Colorado Airspace Initiative (CAI). The proposed actions assessed in the FEIS are substantially the same a the new military training airspace that the ANG has asked the FAA to designate.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gaffin, Environmental Specialist, Environmental Programs Division (ATA–300), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, 20591 (202) 267–3075.

SUPPLEMENTARY INFORMATION: As provided in 40 CFR 1506.3 and FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, the FEIS of another Federal Agency may be adopted in accordance with the procedures in 40 CFR 1506.3. Under 40 CFR 1506.3(b), if the actions covered by an EIS and the actions proposed by another Federal agency are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. The FAA has determined that the proposed action of modifying existing and establishing new military training airspace areas over the State of Colorado is substantially the same as the actions considered in the ANG's FEIS. FAA staff has independency reviewed the ANG FEIS to determine if it is current and that the FAA NEPA procedures have been satisfied. FAA has determined that the FEIS adequately assesses and discloses the potential environmental impacts of the proposed action. FAA staff concluded that, after mitigation measures are taken into consideration, the existing airspace can be modified and new military training airspace can be established with no significant impacts on environmental resources.

The proposal will modify existing and establish new military training airspace areas over the State of Colorado. The ANG has requested this action to respond to changes in readiness training requirements. The requirements are reflected in specific United States Air Force regulations for military aircraft and personnel operating in the affected airspace. Additionally, this action responds to the changes in commercial

aircraft arrival and departure corridors required for operation of the Denver International Airport.

The ANG evaluated the environmental impacts of the CAI in its document, Final Environmental Impact Statement for the Colorado Airspace Initiative, (FEIS) dated August 1997. The preferred alternative was also the environmentally preferred alternative in the FEIS. The preferred alternative was modified in response to concerns raised by private citizens, government agencies, and various public interest groups. The ANG changed its proposal to narrow the widths of portions of corridors of four military training routes and withdrew one route. Subsequently, the ANG issued a Record of Decision (ROD) on October 28, 1997, approving the preferred alternative as modified. The ANG then submitted the FEIS to the FAA with its application for airspace approval.

In furtherance of CEQ regulations, in addition to the executive summary of the ANG FEIS, the FAA is recirculating the following information: (1) the ANG's ROD; (2) a summary of public comments submitted during the aeronautical review and responses to the comments; and (3) a summary of the refinements the ANG made in the ROD to the preferred alternative after the ANG FEIS was issued.

Any person may obtain a copy of the ANG FEIS, ROD and the above-referenced information by submitting a request to: Air National Guard Readiness Center, Program Manager, CAI EIS, ANGRC/CEVP, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20762–5157.

Written comments may be sent to the address below, and are due by June 21, 1999:

Federal Aviation Administration, Environmental Programs Division, Air Traffic Airspace Management Program, Attn.: Elizabeth Gaffin, rm. 422, 800 Independence Ave., SW, Washington, DC 20591.

Issued in Washington, DC, on May 14, 1999.

William J. Marx,

Manager, Environmental Programs Division.

[FR Doc. 99–12742 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–12]

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 (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), 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 May 31, 1999.

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.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

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: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 14, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29504.

Petitioner: Construcciones Aeronautics, S.A.

Section of the FAR Affected: 14 CFR 36 A36.1(b)(7) of Appendix A, C36.3(c) and C36.9(e)(1) of Appendix C.

Description of Relief Sought: To permit CASA to use an alternate sideline noise measurement point and use a 1–g stall speed, instead of the traditional minimum stall speed as the reference datum, for noise certification tests of its C–295 twin turpoprop airplane.

Docket No.: 29513.

Petitioner: Dornier Luftfahrt GmbH.

Section of the FAR Affected: 14 CFR 36 C36.9(e)(1) of Appendix C.

Description of Relief Sought: To permit Dornier to use a 1–g stall Speed instead of the traditional minimum stall speed for noise certification tests of its Dornier 328–300 twin turbofan airplane.

[FR Doc. 99–12740 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–11]

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 (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purposes 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 May 27, 1999.

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, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

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, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 14, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Exempyion

Docket No.: 29514.

Petitioner: Decatur Aero Club.

Section of the FAR Affected: 14 CFR 121 Appendices I & J, 135.251, 135.255 & 135.353.

Description of Relief Sought: To permit Decatur Aero Club to operate flights for its pancake breakfast for compensation of hire without having a drug testing program as required under parts 121 & 135.

Docket No.: 29559.

Petitioner: Eric Kindig dba EK Aviation.

Section of the FAR Affected: 14 CFR 135.249, 135.251, 135.253, 135.255 & 135.353.

Description of Relief Sought: To permit EK Aviation to operate flights on June 12, 1999 at the Sidney Ohio Airport Airfair and on July 4, 1999 at the Airport in Urbana, Ohio for compensation of hire without having a drug testing program as required under parts 135.

Dispositions of Petitions

Docket No.: 29551.

Petitioner: Wings of Denver Flying Club, Inc.

Section of the FAR Affected: 14 CFR 121 Appendices I & J, 135.251, 135.255 & 135.353.

Description of Relief Sought: To permit Wings of Denver Flying Club to operate flights for its annual open house/fly-in for compensation or hire without having a drug testing program as required under parts 121 & 135.

Grant, 5/7/99, Exemption No. 6891.

[FR Doc. 99–12741 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (99–02–C–00–COD) To Impose Only and Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yellowstone Regional Airport, Submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, WY

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 only and impose and use PFC revenue at Yellowstone Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 21, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Ulane, Airport Manager, at the following address: Joint Powers Board, Yellowstone Regional Airport, P.O. Box 2748, Cody WY 82414.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yellowstone Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. 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 (99–02–C–00–COD) to impose only and impose and use PFC revenue at Yellowstone Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 14, 1999, the FAA determined that the application to impose only and impose and use the revenue from a PFC submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming, 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 August 13, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1999.

Proposed charge expiration date: July 1, 2002.

Total requested for use approval: $219,000.00.

Brief description of proposed projects: Impose Only: Encasement of irrigation canal and relocation/reconstruction of parallel taxiway. Impose and Use: Rehabilitation of Runway 4/22.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Non-scheduled on-demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Renton, Washington on May 14, 1999.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 99–12745 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[DOT Docket No. FHWA–99–5693]

Notice of Request for Renewal of a Currently Approved Information Collection: A Guide to Reporting Highway Statistics

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew its clearance of the currently approved information collection identified below under Supplementary Information.

DATES: Comments must be submitted on or before July 19, 1999.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Howard, (202) 366–2833, Federal Highway Administration, Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: A Guide to Reporting Highway Statistics.

OMB Number: 2125–0032.

Background: The data described in the Guide are collected under the authority of 23 U.S.C. 307, 23 CFR 1.5, and 23 CFR 420.105(b). The data are used by the Federal, State, and local levels of government for transportation policy decision making. The data are published annually in FHWA's Highway Statistics and Our Nation's Highways. In addition, the FHWA is required to provide a biennial report to Congress, The Status of the Nation's Surface Transportation System: Conditions and Performance, Biennial Report to Congress, to determine future highway needs (23 U.S.C. 307(h)). The Transportation Equity Act for the 21st century (Pub. L. 105–178, as amended by Public Law 105–206) significantly increased the amount of Federal funds that rely on State-reported motor fuel as an apportionment factor in distributing Federal funds to the States. The Guide provides for the collection of information by describing policies and procedures for assembling statistical data from the existing files of State agencies on motor-vehicle registration and fees, motor-fuel use and taxation, driver licensing, highway taxation and finance, and other related subjects, and the reporting of these data to the FHWA.

Respondents: State and local governments of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the four territories (American Samoa, Guam, Northern Marianas, and Virgin Islands).

Estimated Average Burden Per Response: The estimated average annual reporting burden per response is 825.6 hours for the States and the District of Columbia; and 20 hours for the Commonwealth of Puerto Rico and each of the four territories.

Estimated Total Annual Burden: The estimated total annual burden is 42,206 hours.

Frequency: The respondents are required to report on an annual basis.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA as FHWA will continue to reassess its reporting requirements in terms of need and burden; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; (4) ways to minimize the collection burden without reducing the quality of the collected information; and (5) developing an interactive software to make future data reporting more user friendly. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Availability: An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the Federal Register's WWW site at http://www.access.gpo.gov/su__docs.

Authority: 23 U.S.C. 307; 23 CFR 1.5; 23 CFR 420.105(b); and 49 CFR 1.48.

Issued on: May 17, 1999.

Michael J. Vecchietti,

Director, Office of Information and Management Services.

[FR Doc. 99–12790 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–22–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–99–5692]

Notice of Request for Renewal of a Currently Approved Information Collection: Highway Performance Monitoring System (HPMS)—Field Manual

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of FHWA to request the Office of Management and Budget (OMB) to renew its clearance of the currently approved information collection identified below under Supplementary Information.

DATES: Comments must be submitted on or before July 19, 1999.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James Getzewich, (202) 366–0175, Highway Systems Performance, Office of Highway Policy Information, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Performance Monitoring System (HPMS)—Field Manual.

OMB Number: 2125–0028.

Background: The data for the HPMS are collected under authority of 23

U.S.C. 307 and 23 U.S.C. 315, which place the responsibility on the Secretary of Transportation for management decisions that affect transportation. 23 CFR 1.5 and 49 CFR 1.48 provide the Federal Highway Administrator with authority to request information to administer the Federal-Aid Highway Program. Estimates of future highway needs of the Nation are mandated by Congress on a biennial basis (23 U.S.C. 307(h)). Data are used for assessing highway system performance under FHWA's strategic planning and performance reporting process developed in accordance with requirements of the Government Performance and Results Act (GPRA, Sec 3 and Sec 4) and for apportioning Federal-aid highway funds under the Transportation Equity Act for the 21st Century (TEA–21, Sec 1103). The HPMS data collected are essential to FHWA and Congress in evaluating effectiveness of the Federal-aid highway program providing miles, lane-miles, and travel components of apportionment formulae. The information is used by FHWA to develop and implement legislation and by State and Federal transportation officials to adequately plan, design, and administer effective, safe, and efficient transportation systems. A recently completed reassessment of the HPMS resulted in the elimination and/or streamlining of approximately 20 percent of the required data. Therefore, a reduction in burden hours for this currently-approved information collection is anticipated.

Respondents: State governments of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the four territories (American Samoa, Guam, Northern Marianas, and Virgin Islands).

Estimated Average Burden Per Response: The estimated average burden per response for the annual collection and processing of the HPMS data is 1,440 hours for the States, the District of Columbia and the Commonwealth of Puerto Rico; and 20 hours for each of the four territories.

Estimated Total Annual Burden: The estimated total annual burden is 74,960 hours.

Frequency: The data is compiled by the respondents and submitted to FHWA annually.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Availability: An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the Federal Register's WWW site at http://www.access.gpo.gov/su__docs.

Authority: 23 U.S.C. 307; 23 U.S.C. 315; 23 CFR 1.5; and 49 CFR 1.48.

Issued on: May 17, 1999.

Michael J. Vecchietti,

Director, Office of Information and Management Services.

[FR Doc. 99–12791 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice and Request for Comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on March 18, 1999 (64 FR 13465).

DATES: Comments must be submitted on or before June 21, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 17, Washington, D.C. 20590 (telephone: (202) 493–6292), or Ms. Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., N.W., Mail Stop 35, Washington, D.C. 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. FRA received no comments after issuing the 60-day notice referenced earlier. Accordingly, DOT announces that these information collection activities have been reevaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements and one additional requirement are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Worker Protection (49 CFR 214).

OMB Control Number: 2130–0539.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Abstract: This rule establishes regulations governing the protection of railroad employees working on or near railroad tracks. The regulation requires that each railroad devise and adopt a program of on-track safety to provide employees working along the railroad with protection from the hazards of being struck by a train or other on-track equipment. Elements of this on-track safety program include an on-track safety manual; a clear delineation of employers' responsibilities, as well as employees' rights and responsibilities thereto; well-defined procedures for communication and protection; and annual on-track safety training. The

program adopted by each railroad is subject to review and approval by FRA.

Annual Estimated Burden Hours: FRA estimates that the revised hours for these ICRs is 585,101. This is a decrease of 82,473 hours from the previous total of 667,574 hours. A significant portion of this reduction is a result of railroads fulfilling the one-time requirement in establishing on-track safety programs. The revised burden hour estimate does consider railroads amending their original on-track safety programs and the start-up of new railroads. Excursion and tourist railroads that do not operate on the general rail system of transportation are exempted by FRA from complying with this regulation.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. §§ 3501–3520.

Issued in Washington, D.C. on May 14, 1999.

Marie S. Savoy,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration

[FR Doc. 99–12657 Filed 5–19–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 135X)]

Union Pacific Railroad Company—Abandonment Exemption—in St. Louis County, MO (Kirkwood Industrial Lead, Kirk Jct. to Billman Spur)

On April 30, 1999, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon and discontinue service over a 2.18-mile segment of a line of railroad known as the Kirkwood Industrial Lead extending from milepost 13.62 near Kirk Jct. to the end of the line at milepost 15.8 near Billman Spur, in St. Louis County, MO. The line traverses U.S. Postal Service Zip Codes 63122 (Kirkwood) and 63123 (Billman Spur) and includes the non-agency rail station of Billman Spur at milepost 15.30.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 18, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 9, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 135X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before June 9, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 12, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–12469 Filed 5–19–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 14, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 21, 1999, to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0045.

Form Number: Customs Form 7533C.

Type of Review: Extension.

Title: U.S. Customs In-Transit Manifest.

Description: Customs Form 7533C is used by railroads to transport merchandise (products and manufactures of the United States) from one port to another in the United States through Canada.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 8 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 15 hours.

OMB Number: 1515–0059.

Form Number: Customs Form 1303.

Type of Review: Extension.

Title: Ship's Stores Declaration.

Description: This collection is required for audit purposes to ensure that goods used for Ship's Stores can be easily distinguished from other cargo and retain duty free status.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 8,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 26,000 hours.

OMB Number: 1515–0062.

Form Number: Customs Form 1301.

Type of Review: Extension.

Title: General Declaration.

Description: This collection is used to record vessel identification and general manifest. This information is recorded and provided to the Bureau of Census to be used for statistical purposes and by other agencies.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 8,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 17,326 hours.

OMB Number: 1515–0076.

Form Number: Customs Form 3124.

Type of Review: Extension.

Title: Customhouse Broker's License/ Permit.

Description: The license permit application is used by individuals, corporations, partnerships or associations applying for initial licensing in one Customs district, or in applying for a permit in an additional Customs district, or applying for a National Permit after receiving prior licensing.

Respondents: Business or other for-profit, business or other for-profit.

Estimated Number of Respondents: 1,800.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,800 hours.

OMB Number: 1515–0082.

Form Number: Customs Form 226.

Type of Review: Extension.

Title: Record of Vessel Foreign Repair or Equipment.

Description: This collection is required to ensure the collection of revenue (duty) required on all equipment, parts, or materials purchased, and repairs made to U.S. Flag vessels outside the United States.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 200.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,500 hours.

OMB Number: 1515–0087.

Form Number: Customs Form 255.

Type of Review: Extension.

Title: Declaration of Unaccompanied Articles.

Description: This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a later date. This declaration allows that traveler to claim their appropriate allowable exemption.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 7,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,250 hours.

OMB Number: 1515–0117.

Form Number: None.

Type of Review: Extension.

Title: Establishment of a Container Station.

Description: This collection is an application to establish a container station for the vaning and devaning of cargo.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 170.

Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 354 hours.

OMB Number: 1515–0121.

Form Number: None.

Type of Review: Extension.

Title: Establishment of a Bonded Warehouse.

Description: Owners or lessees desiring to establish a bonded warehouse must make written application to the port director where the warehouse is located. The application must state warehouse location, describe the premises and indicate the class of bonded warehouse permit desired.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 45.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 135 hours.

OMB Number: 1515–0127.

Form Number: None.

Type of Review: Extension.

Title: Application for Bonding of Smelting and Refining Warehouse.

Description: A manufacturer engaged in smelting or refining, or both, of metal-bearing materials as provided for in Section 312, Tariff Act of 1930, as amended, may make application to the port director nearest the plant location, for the bonding such plants pursuant to 19 U.S.C. 1312 and 19 CFR 19.17(a).

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 8 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 8 hours.

OMB Number: 1515–0133.

Form Number: None.

Type of Review: Extension.

Title: Application to Receive Free Materials in a Bonded Warehouse.

Description: The proprietor of a bonded manufacturing warehouse must make application to the port director of Customs to receive therein any domestic merchandise subject to Internal Revenue Tax, which is to be used in connection with the manufacture of articles permitted to be manufactured in such a warehouse. .

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 8.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 3,000 hours.

OMB Number: 1515–0134.
Form Number: None.
Type of Review: Extension.
Title: Bonded Warehouses-Alterations, Suspensions Relocations and Discontinuances.
Description: Alterations to, or relocation of, a bonded warehouse may be made with the permission of an application by the warehouse proprietor to alter or relocate the warehouse. .
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.
Estimated Number of Respondents/ Recordkeepers: 110.
Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 193 hours.

OMB Number: 1515–0145.
Form Number: None.
Type of Review: Extension.
Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal.
Description: This information is used in a voluntary program to receive internationally recognized Customs certification that intermodal Containers/ Road Vehicles meet construction requires of international Customs conventions. Such certification facilitates international trade by reducing intermediate international controls.
Respondents: State, Local to Tribal Government, Business or other for-profit, individuals or households, not-for-profit institutions,.
Estimated Number of Respondents: 25.
Estimated Burden Hours Per Respondent: 3 hours, 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 10,600 hours.

OMB Number: 1515–0193.
Form Number: None.
Type of Review: Extension.
Title: Report of Loss, Detention, or Accident by Bonded Carrier, Cartman, Lighterman, Foreign Trade Zone Operator, or Centralized Examination Station Operator.
Description: This collection is required to ensure that any loss or detention of bonded merchandise, or any accident happening to a vehicle or lighter while carrying bonded merchandise shall be immediately reported by the cartman, lighterman, qualified bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator are properly report to the port director.
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.
Estimated Number of Respondents/ Recordkeepers: 250.
Estimated Burden Hours Per Respondent/Recordkeeper: 37 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 154 hours.

OMB Number: 1515–0194.
Form Number: None.
Type of Review: Extension.
Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.
Description: This collection is used to ensure revenue collections and to provide duty-free entry of merchandise eligible for reduced duty treatment under provisions of HTUSA.
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, State, Local or Tribal government.
Estimated Number of Recordkeepers: 750.
Estimated Burden Hours Per Recordkeeper: 12 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 450 hours.

OMB Number: 1515–0210.
Form Number: None.
Type of Review: Extension.
Title: Notice of Detention.
Description: This collection requires a response to the Notice of Detention of merchandise and to provide evidence of admissibility to allow entry.
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government.
Estimated Number of Respondents: 250.
Estimated Burden Hours Per Respondent: 2 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.
Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 99–12713 Filed 5–19–99; 8:45 am]
BILLING CODE 4820–02–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 11, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 21, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0094.
Form Number: IRS Form 1041–A.
Type of Review: Extension.
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts.
Description: Form 1041–A is used to report the information required in 26 USC 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify that amounts for which a charitable deduction was allowed are used for charitable purposes.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 18,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	24 hr., 9 min.
Learning about the law or the form.	3 hr., 26 min.
Preparing the form	8 hr., 38 min.
Copying, assembling, and sending the form to the IRS.	1 hr., 20 min.

Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 657,900 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management

and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–12714 Filed 5–19–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 14, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 21, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0065.

Form Number: IRS Forms 4070, 4070A, 4070PR and 4070A–PR.

Type of Review: Revision.

Title: Employee's Report of Tips to Employer (4070); Employee's Daily Record of Tips (4070A); Informe al Patrono de Propinas Recobidas por el Empleado (4070PR); and Registro Diario de Propinas del Empleado (4070A–PR).

Description: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR are used this purpose.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 570,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form (in minutes)	Preparing the form (in minutes)	Copying, and providing the form (in minutes)
4070	7 min.	2	13	10
4070A	3 hr., 23 min.	2	28	28
4070PR	7 min.	2	55	28
4070A–PR	3 hr., 23 min.	3	13	10

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 36,322,800 hours.

OMB Number: 1545–0122.

Form Number: IRS Form 1118, Schedules I and J.

Type of Review: Extension.

Title: Foreign Tax Credit—Corporation.

Description: Form 1118 and separate Schedules I and J are used by domestic and foreign corporations to claim a credit for taxes paid to foreign countries. The IRS uses Form 118 and related schedules to determine if the corporation has computed the foreign tax credit.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law of the form	Preparing and sending the form to the IRS
1118	97 hr., 20 min.	17 hr., 9 min.	20 hr., 42 min.
Schedule I (Form 1118)	9 hr., 20 min.	1 hr., 0 min.	1 hr., 11 min.
Schedule J (Form 1118)	106 hr., 25 min.	1 hr., 12 min.	2 hr., 59 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 4,071,298 hours.

OMB Number: 1545–1493.

Regulation Project Number: PS–7–89 Final.

Type of Review: Extension.

Title: Treatment of Gain From the Disposition of Interest in Certain Natural Resource Recapture Property by S Corporations and Their Shareholders.

Description: The regulation prescribes rules under section 1254 relating to the treatment by S corporations and their shareholders of gain from the disposition of natural resource recapture property and from the sale or exchange of S corporation stock. Shareholders that sell or exchange stock may submit a statement to rebut presumption of gain treatment.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 hours.

OMB Number: 1545–1647.

Revenue Procedure Number: Revenue Procedure 99–18.

Type of Review: Extension.

Title: Debt Roll-Ups.

Description: This revenue procedure provides for an election that will facilitate the consolidation of two or more outstanding debt instruments into a single debt instrument. Under the election, taxpayers can treat certain exchanges of debt instruments as realization events for federal income tax purposes even though the exchanges do not result in significant modifications

under § 1.1001–3 of the Income Tax Regulations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 75 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–12715 Filed 5–19–99; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

Submission For OMB Review; Comment Request

AGENCY: United States Information Agency.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)], this notice announces that the following information collection activity has been forwarded to the Office of Management and Budget (OMB) for review and comment. The United States Information Agency (USIA) is requesting OMB approval and three year renewal for the information collection entitled, ''Exchange Visitor Program Application'' (IAP–37), and ''Update of Information on Exchange Visitor Program Sponsor'' (IAP–87) both under OMB control number 3116–0210.

Also, in accordance with the Paperwork Reduction act and as part of its continuing effort to reduce paperwork and respondent burden, USIA invites the general public and other Federal agencies to comment on this proposed public use form. Comments are requested on the proposed information collection concerning (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) way to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, SW, Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503, Attention: Desk Officer for USIA.

DATES: Comments are due on or before June 21, 1999.

COPIES: Copies of the Request for Clearance (OMB 83–I, supporting statement, and other documents that have been submitted to OMB for approval may be obtained from the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/AOL, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–4408, Internet address JGiovett@USIA.GOV; and OMB review: Mr. Jefferson Hill, Office of Information And Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, D.C. 20503, Telephone (202) 395–5871.

SUPPLEMENTARY INFORMATION: The information collection activity involved with this program is conducted pursuant to the mandate give to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, 22 U.S.C. 2451.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting initial comments on this collection was published March 22, 1999, vol. 64, no. 54. Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0210) is estimated per response to average 60 minutes for the IAP–37 and 20 minutes for the IAP–87, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. For the IAP–37, responses are voluntary and respondents are requested to respond annually. For the IAP–87, responses are mandatory and respondents are required to respond on an as needed basis.

Current Actions: This information collection has been submitted to OMB for approval and three-year renewal of the currently approved collection due to expire on June 30, 1999.

Titles: ''Exchange Visitor Program Application'' and ''Update of Information on Exchange Visitor Program Sponsor''

Form Numbers: IAP–37 and IAP–87.

Abstract: Under the requirements of 22 CFR, part 514, Exchange Visitor Program; Final Rule as amended and the Mutual Educational and Cultural Exchange Act of 1961, USIA has been delegated the authority to designate Sponsors for the Exchange Visitor Program for U.S. Government agencies, public and private educational and cultural exchange. The purpose of the Exchange Visitor Program is intended to promote interchanges of persons engaged in Education, Arts, and Sciences and to promote mutual understanding between the people of the U.S. and other countries. The USIA IAP–37 form is used when organizations wishing to sponsor exchange visitors from abroad must apply to USIA for a designation that will permit them to function as sponsors. The USIA INAP–87 form is used by the Exchange Visitor Sponsors to change the name of their institution and/or organization, the names of the personnel involved, addresses, or telephone numbers. The form is also used to order supply of additional IAP forms, code books, or to cancel the program.

Proposed Frequency of Responses

No. of Respondents—1,550.
Recordkeeping Hours—1.33.
Total Annual Burden—2,061.

Dated: May 14, 1999.

Rose Royal,

Federal Register Liaison.

[FR Doc. 99–12648 Filed 5–19–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to

the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit ''Eva Levina-Rozengolts: Her Life and Work'' imported from abroad for temporary exhibition without profit within the United States, is of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed exhibit objects at The National Museum of Women In The Arts, New York, New York, from on or about June 17, 1999, to on or about September 26, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacqueline H. Caldwell, Assistant General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: May 13, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–12647 Filed 5–19–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Advisory Commission on Public Diplomacy will meet on Wednesday May 19, 1999 in Room 600, 301 4th Street, SW, Washington, DC, from 8:30 a.m. to 9:30 a.m.

At 8:30 a.m. the Commission will meet with Mr. John Rendon, President, The Rendon Group to discuss Public Diplomacy Strategies during Crises.

FOR FURTHER INFORMATION CONTACT: Please call Marianne Scott, (202) 619–4457, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: May 17, 1999.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 99–12759 Filed 5–19–99; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–(None Assigned)]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Planning and Analysis, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Planning and Analysis (OP&A), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 21, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8135 or FAX (202) 273–5981. Please refer to ''The 1999 Survey of Educational Benefits Usage (SEBU).''

SUPPLEMENTARY INFORMATION:

Title: The 1999 Survey of Educational Benefits Usage (SEBU).

Type of Review: New collection.

Abstract: The Government Performance and Results Act of 1993 (CIPRA) is the primary impetus for VA to conduct a formal evaluation of its major education programs. The purpose of the survey is to obtain information that is relevant to assessing the effectiveness and efficiency of three education programs administered by VA: Montgomery GI Bill (Title 38, Chapter 30); Montgomery GI Bill for Selected Reserves (Title 10, Chapter 1606); and Dependents' Education Assistance (Title 38, Chapter 35). The data gathered from individuals eligible to participate in the program will provide the basis from which VA will analyze and determine the extent to which each program meets its statutory intent and the expectations of veterans, legislators, school officials and program officials. The data will also provide information that may be used to help examine how well the programs are poised to meet the needs of veterans in the early 21st century and identify how best to meet these needs. The data will provide the basis that will allow VA to further develop and improve its strategy to continue to deliver the best possible educational benefits and services at the least cost.

The Department published a notice in the **Federal Register** on November 5, 1998 (Volume 63, Number 214), on pages 59840–59841. The notice solicited comments on the information that will be collected by a survey to assess the effectiveness and efficiency of three education programs administered by the Department of Veterans Affairs: Montgomery GI Bill (Title 38, U.S.C., Chapter 30); Montgomery GI Bill for Selected Reserves (Title 10, U.S.C., Chapter 1606); and Dependents' Education Assistance (Title 38, U.S.C., Chapter 35). No comments were received during the 60-day public comment period.

Affected Public: Individuals or households.

Total Estimated Annual Burden: 2,250 hours.

Benefit users: 1,250 hours.

Benefits non-users: 1,000 hours.

Total Estimated Time Per Respondent:

Benefit users:

Veterans/active duty members—30 minutes

Reservists/National Guard members—25 minutes

Survivors/dependents—20 minutes

Benefits non-users:

Veterans/active duty members—25 minutes

Reservists/National Guard members—20 minutes

Survivors/dependents—15 minutes

Frequency of Response: One-time.

Estimated Number of Respondents: 6,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''The 1999 Survey of Educational Benefits Usage (SEBU).''

Dated: March 31, 1999.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 99–12691 Filed 5–19–99; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 64, No. 97

Thursday, May 20, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

Correction

In notice document 99–7605, appearing on page 14887 in the issue of Monday, March 29, 1999, make the following correction:

On page 14887, in the second column, in the **DATES:** section, in the second line, ''April 28, 1999'' should read ''May 28, 1999''.

[FR Doc. C9–7605 Filed 5–19–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. MG99-19-000 and MT99-11-000]

Pine Needle LNG Company, L.L.C.; Notice of Filing

Correction

In notice document 99–12110 appearing on page 25877 in the issue of Thursday, May 13, 1999, the docket number should read as set forth above.

[FR Doc. C9–12110 Filed 5–19–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–6337–1]

RIN 2060–AH97

Test Methods: Three New Methods for Velocity and Volumetric Flow Rate Determination in Stacks or Ducts

Correction

In rule document 99–11796 beginning on page 26484 in the issue of Friday, May 14, 1999, make the following correction(s):

PART 60–[CORRECTED]

On page 26569, at the bottom, above the ''Billing Code'' line, add the file line to read as follows:''[FR Doc. 99–11796 Filed 5–13–99; 8:45 am]''.

[FR Doc. C9–11796 Filed 5–19–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR-4496-N-01]

Fair Market Rents for the Section 8 Housing Assistance Payments Program--Fiscal Year 2000

Correction

In proposed rule document 99–11507 beginning on page 24866 in the issue of Friday, May 7, 1999, make the following correction:

On page 24880, remove the existing table and add the following table for ''Schedule B - 40th Percentile Fair Market Rents for Existing Housing''.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 11

H A W A I I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	470	613	705	936	1153
Maui	759	941	1148	1483	1680
Kauai	600	897	1092	1445	1562

I D A H O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	392	447	543	754	892	Ada, Canyon
Pocatello, ID MSA	281	326	419	571	675	Bannock

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	280	325	419	555	657
Benewah	280	325	419	555	657
Blaine	433	477	635	886	1043
Bonner	322	399	494	684	787
Boundary	280	325	419	555	657
Camas	280	325	419	555	657
Cassia	280	325	419	555	657
Clearwater	280	325	419	555	657
Elmore	280	325	419	555	657
Fremont	280	325	419	555	657
Gooding	280	325	419	555	657
Jefferson	288	325	419	555	657
Kootenai	356	419	548	763	902
Lemhi	280	325	419	555	657
Lincoln	280	325	419	555	657
Minidoka	280	325	419	555	657
Oneida	281	325	419	555	657
Payette	280	325	419	555	657
Shoshone	280	325	419	555	657
Twin Falls	280	325	424	559	657
Washington	280	325	419	555	657
Bear Lake	280	325	419	555	657
Bingham	298	325	419	555	657
Boise	280	361	419	555	657
Bonneville	285	359	494	664	810
Butte	280	325	419	555	657
Caribou	280	325	419	555	657
Clark	280	325	419	555	657
Custer	280	325	419	555	657
Franklin	280	325	419	555	657
Gem	280	325	419	555	657
Idaho	280	325	419	555	657
Jerome	280	325	419	555	657
Latah	280	325	419	555	666
Lewis	280	325	419	555	657
Madison	280	325	419	555	657
Nez Perce	285	325	419	555	657
Owyhee	280	325	419	555	657
Power	280	325	419	555	657
Teton	305	325	419	567	671
Valley	291	325	419	555	657

I L L I N O I S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	341	416	558	775	818	Mclean
Champaign-Urbana, IL MSA	376	461	597	819	981	Champaign
Chicago, IL	533	640	762	953	1066	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	282	390	483	624	676	Henry, Rock Island

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041599

[FR Doc. C9-11507 Filed 5-19-99; 8:45 am]
BILLING CODE 1505-01-D

Federal Register

Thursday
May 20, 1999

Part II

Nuclear Regulatory Commission

10 CFR Part 52

AP600 Design Certification; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

RIN 3150–AG23

AP600 Design Certification

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) proposes to amend its regulations to certify the AP600 standard plant design under Subpart B of 10 CFR Part 52. This action is necessary so that applicants or licensees intending to construct and operate an AP600 design may do so by referencing the AP600 design certification rule (DCR). This proposed DCR, set out as Appendix C, is nearly identical to the two previously codified DCRs in Appendices A and B of 10 CFR Part 52. The applicant for certification of the AP600 design is Westinghouse Electric Company LLC (hereinafter referred to as Westinghouse).

The public is invited to submit comments on this proposed DCR and the AP600 design control document (DCD) that is incorporated by reference into the DCR. In addition, interested parties may request an informal hearing before an NRC Atomic Safety and Licensing Board, in accordance with 10 CFR 52.51(b), on matters pertaining to this proposed DCR. The NRC also invites the public to submit comments on the environmental assessment for the AP600 design.

DATES: Submit comments by August 3, 1999. Comments received after this date will be considered if it is practical to consider them, but the Commission is only able to ensure consideration for comments received on or before this date. Requests for an informal hearing must be submitted by August 3, 1999.

ADDRESSES: Mail written comments and requests for an informal hearing to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O–16 C1. Comments may also be delivered to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays. Copies of comments received, the DCD, and the environmental assessment will be available for examination and copying at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

Electronic comments may be provided via the NRC's interactive rulemaking website through the NRC home page *[www.nrc.gov]*. From the home page, select ''Rulemaking'' from the tool bar at the bottom of the page. The interactive rulemaking website can then be accessed by selecting ''Rulemaking Forum.'' This site provides the ability to upload comments as files [any format], if your web browser supports that function. Contact Ms. Carol Gallagher by telephone (301) 415–5905 or e-mail:*cag@nrc.gov* for information about the interactive rulemaking website.

FOR FURTHER INFORMATION CONTACT: Jerry N. Wilson, Mail Stop O–12 G15, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or telephone (301) 415–3145, or e-mail: *jnw@nrc.gov*.

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I. Background

The NRC added 10 CFR Part 52 to its regulations to provide for the issuance of early site permits, standard design certifications, and combined licenses for nuclear power reactors. Subpart B of 10 CFR Part 52 established the process for obtaining design certifications. On June 26, 1992, Westinghouse tendered its application for certification of the AP600 standard plant design with the NRC. Westinghouse submitted this application in accordance with Subpart B and Appendix O of 10 CFR Part 52. The NRC formally accepted the application as a docketed application for design certification (Docket No. 52–003) on December 31, 1992. Information submitted before that date can be found under Project No. 676.

The NRC staff issued a final safety evaluation report (FSER) related to certification of the AP600 standard plant design in September 1998 (NUREG–1512). The FSER documents the results of the NRC staff's safety review of the AP600 design against the requirements of 10 CFR Part 52, Subpart B, and delineates the scope of the technical details considered in evaluating the design. The FSER provides the bases for Commission approval of the AP600 design through design certification. A copy of the FSER may be obtained from the Superintendent of Documents, U. S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328 or the National Technical Information Service, Springfield, VA 22161–0002. The final design approval for the AP600 design was issued on September 3, 1998, and published in the **Federal Register** on September 11, 1998 (63 FR 48772).

Rulemaking Procedures

Subpart B of 10 CFR Part 52 provides for Commission approval of standard designs for nuclear power facilities (*e.g.*, design certification) through rulemaking. In accordance with the Administrative Procedure Act (APA), Part 52 provides the opportunity for the public to submit written comments on the proposed design certification rule. However, Part 52 goes beyond the requirements of the APA by providing the public with an opportunity to request a hearing before the Atomic Safety and Licensing Board Panel in a design certification rulemaking. While Part 52 describes a general framework for conducting a design certification rulemaking, § 52.51(a) states that more detailed procedures for the conduct of each design certification will be specified by the Commission.

To assist the Commission in developing the detailed rulemaking procedures, the NRC's Office of the General Counsel prepared a paper (SECY–92–381, ''Rulemaking Procedures for Design Certification,'' dated November 10, 1992), that recommended design certification rulemaking procedures. This paper was prepared after consideration of the panel discussions at a public workshop and the written comments received after the workshop. On April 30, 1993, the Commission issued a Memorandum to

the General Counsel that provided the Commission's determinations with respect to the procedural issues raised by the General Counsel's paper. Section II describes the procedures to be utilized in this design certification rulemaking.

II. Comments and Hearings in the Design Certification Rulemaking

A. Opportunity To Submit Written and Electronic Comments

Any person may submit written comments on the proposed design certification rule to the Commission for its consideration.[1] Commenters have 75 days from the publication of this notice to file written comments on the proposed design certification rule. Commenters needing access to proprietary or safeguards information in order to provide written comments must follow the procedures and filing deadlines (including the date for filing written comments) set forth in Section E below.

Commenters are encouraged to submit, in addition to the original paper copy, a copy of the comment letter in electronic format on a 3.5 inch computer diskette. Text files should be provided in WordPerfect 8 format or unformatted ASCII code. The format and version should be identified on the diskette's external label.

B. Opportunity To Request Hearing

Any person may request an informal hearing on one or more specific matters with respect to the proposed design certification rule.[2] An informal hearing provides the admitted party with an opportunity to provide written and oral presentations on those matters to an Atomic Safety and Licensing Board, and to request that the licensing board question the applicant on those matters. The conduct of an informal hearing is discussed in more detail in Section C. below. Under certain circumstances, a party in an informal hearing may request that the Commission hold a formal hearing on specific and substantial factual disputes necessary to resolve the matters for which the party was granted an informal hearing (Section C.11 below).

A person may request an informal hearing even though that person has not submitted separate written comments on the design certification rule (*i.e.*, is not a commenter). Requests for an informal hearing must be received by the Commission no later than 75 days from the publication of this notice, and a copy of the request must be sent via overnight mail to the design certification applicant at the following address: Mr. Brian A. McIntyre, Manager, Advanced Plant Safety and Licensing, Westinghouse Electric Company, P.O. Box 355, Pittsburgh, PA 15230–0355. The information which a person requesting a hearing must provide in the hearing request, as well as the procedures and standards to be used by the Commission in its determination of the request, are discussed in Sections C.1 through C.4 below.

A person who needs to review proprietary information submitted by the design certification applicant in order to prepare a request for an informal hearing must follow the procedures and filing schedule set forth in Section E. below.

The Commission is also providing an opportunity for interested State, county, and city/municipal and other local Governments, as well as Native American tribal governments, to participate as ''interested governments'' in any informal hearings which the Commission authorizes, similar to their participation as ''interested governments'' in Subpart G hearings under 10 CFR 2.715. State, county, city/municipal, local, and tribal Governments wishing to participate as an ''interested government'' in any design certification rulemaking hearings must file their request to participate no later than 75 days from the publication of this notice.

C. Hearing Process

1. Filings and Computation of Times

All notices, papers, or other filings discussed in this section must be filed by express mail.[3] The time periods specified in this section have been established based upon such a filing. The express mail filing requirement shall be considered in establishing other filing deadlines.

In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday at the place where the action or event is to occur, in which case the period runs until the next day which is neither a Saturday, Sunday, nor holiday.

2. Content of Hearing Request

The Commission will grant a request for an informal hearing only if the hearing request satisfies each of the following two requirements. First, the hearing request must include the written presentations that the requestor wishes to be included in the record of the hearing. The written presentations must:

(i) Identify the specific portion of the proposed design certification rule or supporting bases which are challenged,

(ii) Describe the reasons why the proposed rule or supporting bases are incorrect or insufficient, and

(iii) Identify the references or sources upon which the person requesting the hearing relies.

If the requestor has submitted written comments in the public comment period addressing these three factors for the specific issue for which the requestor seeks a hearing, it will be sufficient for the requestor to identify the portions of the written comments that the requestor intends to submit as a written presentation. Also, the hearing request must demonstrate that the requestor (or other persons identified in the hearing request who will represent, assist, or speak on behalf of the requestor at the hearing) has appropriate knowledge and qualifications to enable the requestor to contribute significantly to the development of the hearing record on the specific matters at issue. The Commission does not intend that the requestor meet a judicial ''expert witness'' standard in order to meet the second criterion. Nonetheless, given the substantial commitment of time and resources associated with any hearing, the Commission believes it to be a reasonable prerequisite that the requestor demonstrate that he/she (or his/her assistant) has:

(i) Substantial familiarity with the publicly available docketed information relevant to the issue for which a hearing is requested;

(ii) The requisite technical capability to understand the factual matters and develop a record on the issue for which a hearing is requested, and

(iii) An understanding of the NRC's hearing procedures in 10 CFR Part 2.[4]

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[1] An opportunity for public comment is required by Section 553 of the Administrative Procedures Act and 10 CFR 52.51(b).

[2] An opportunity for a hearing is provided by 10 CFR 52.51(b).

[3] Filings discussed in this section may also be served upon the Commission in electronic form in lieu of express mail. However, parties must serve copies of their filings on other parties by express mail, unless the receiving party agrees to filing in electronic form. These filings must be transmitted no later than the last day of the time period specified for filing and must be in accordance with the requirements specified under **DATE** and **ADDRESSES** in this notice.

[4] Requesters will satisfy this requirement by stating that they possess and have read a copy of 10 CFR Part 2, Subparts A, G, and L.

3. Request to Hold Hearing Outside of Washington, DC

Any hearing(s) which the Commission may authorize ordinarily will be conducted in the Washington, DC. metropolitan area. However, the Commission at its discretion may schedule hearings outside the Washington, DC. metropolitan area in response to requests submitted by a person requesting a hearing that all or part of the hearing be held elsewhere. These requests must be submitted in conjunction with the request for hearing, and must specifically explain the special circumstances for holding a hearing outside the Washington, DC. metropolitan area.

4. Responses to Hearing Request

The applicant may file a response to any hearing request within 15 days of the date of the hearing request. The NRC staff will not provide a response to the hearing request unless requested to do so by the Commission but may assist the Commission in its ruling on the request.

5. Commission Determination of Hearing Request

The Commission intends to rule on a hearing request within 20 days of the close of the period for requesting a hearing. The Commission's determination will be based upon the materials accompanying the hearing request and the applicant's response (and the NRC staff's response, if requested by the Commission). The hearing request shall be granted if:

(i) The request is accompanied by a written presentation containing the information required by Section C.2. above; and

(ii) The requestor has the appropriate knowledge and qualifications to enable the requestor to contribute significantly to the development of the hearing record on the matters sought to be controverted.

The Commission may consult with the NRC staff before its determination of a hearing request. A written decision either granting or denying the hearing request will be published by the Commission.

If a hearing request is granted in whole or in part, the Commission's decision will delineate the controverted matter that will be the subject of the hearing and whether any issues and/or parties are to be consolidated (*see* Section C.7. below). The Commission's decision granting the hearing will direct the establishment of a licensing board to preside over the informal hearing. Finally, the Commission's decision will specify:

(i) The date by which any requests for discovery must be filed with the licensing board (normally 20 days after the date of the Commission's decision), and

(ii) The date by which any objections to discovery must be filed (*see* Section C.9. below).

The Commission's decision will be sent to each admitted party by overnight mail. Separate hearings may be granted for each controverted matter or set of consolidated matters. Thus, if there are three different controverted matters, the Commission may establish three separate hearings. In this fashion, closing of the hearing record on a controverted matter and its referral to the Commission for resolution need not await completion of the hearing on the other controverted matters. Finally, the Commission's decision will rule on any requests for hearings outside of the Washington, DC. metropolitan area (*see* Section C.3 above).

6. Authority of the Licensing Board

If the Commission authorizes an informal hearing on a controverted matter, the licensing board will function as a ''limited magistrate'' in that hearing with the authority and responsibility for assuring that a sufficient record is developed on those controverted matters which the Commission has determined are appropriate for consideration in that hearing. The licensing board shall have the following specific responsibilities and authority:

(i) Schedule and expeditiously conduct the informal hearing for each admitted controverted matter, consistent with the rights of all the parties and with the Commission's Statement of Policy on Conduct of Adjudicatory Proceedings[5], CLI–98–12, 48 NRC 18 (1998), (63 FR 41872, August 5, 1998),

(ii) Review all discovery requests against the criteria established by the Commission, and refer all appropriate requests to the Commission with a decision explaining the licensing board's action,

(iii) Preside over and resolve any issues regarding the scheduling and conduct of any discovery authorized by the Commission,

(iv) Order such further consolidation of parties and issues as the licensing board determines is necessary or desirable,

(v) Orally examine persons making oral presentations in the informal hearing, based in part upon the licensing board's review of the parties' proposed oral questions to be asked of persons making oral presentations,

(vi) Request that the NRC staff:

(A) Answer licensing board questions about the FSER or the proposed rule,

(B) Provide additional information or documentation with respect to the design certification, and

(C) Provide other assistance as the licensing board may request. Licensing board requests for NRC staff assistance should be framed such that the NRC staff does not assume a role as an adversary party in the informal hearing (*see* Section C.8 below),

(vii) Review all requests for additional hearing procedures and refer all appropriate requests to the Commission with a decision explaining the licensing board's action,

(viii) Certify the hearing record to the Commission, based upon the licensing board's determination that the hearing record contains sufficient information for the Commission to make a reasoned determination on the controverted matter; and

(ix) Include with its certification any concerns identified by the licensing board in the course of the hearing which, although neither raised by the parties nor necessary to resolution of the controverted hearing matters, are significant enough in the licensing board's view to warrant attention by the Commission.

Licensing board determinations with respect to referral of requests to the Commission, as well as licensing board determinations of parties' motions, are not appealable to the Commission as an interlocutory matter. Instead, any disagreements with the licensing board's determinations and a specific discussion of how the hearing record is deficient with respect to the contested issue must be set forth in the parties' proposed findings of fact which are submitted directly to the Commission (*see* Section C.13 below).

As suggested by Item (ix) above, the licensing board shall not have any ''sua sponte'' authority analogous to 10 CFR 2.760a. The Commission believes that in the absence of a request for an informal hearing on a matter, the Commission should resolve issues with respect to the design certification rule in the same manner as other agency-identified rulemaking issues, *viz.*, through NRC staff consideration of the issue followed by the Commission's review and its final resolution of the matter. However, when it certifies the completed hearing record to the Commission (*see* Section C.12. below), the licensing board should identify to the Commission any

[5] Although the opportunity for an informal hearing provided for in Section 52.51(b) and this rulemaking notice is *not* an adjudicatory hearing *per se*, the underlying principals and goal of expeditious and fair conduct of adjudicatory hearings are also applicable to informal hearings.

concerns identified during the hearing that are significant enough to warrant Commission consideration but that are unnecessary or irrelevant to the resolution of the controverted hearing matter.

The licensing board shall close the hearing and certify the record to the Commission only after it determines that the record on the controverted matter is sufficiently complete for the Commission to make a reasoned determination with respect to that matter. However, the licensing board shall not have any responsibility or authority to resolve and decide controverted matters in either an informal or a formal hearing. Rather, the Commission retains its traditional authority in rulemaking proceedings to evaluate and resolve all rulemaking issues identified in public comments on a proposed rule. Therefore, the Commission will resolve any controverted matters that are the subject of a hearing in this design certification rulemaking.

7. Consolidation of Parties and Issues; Joint Hearings on Related Issues

If two or more persons seek an informal hearing on the same or similar matters, the Commission may, in its discretion, grant an informal hearing and consolidate the matters into a single issue (as defined by the Commission). The Commission may also, in its discretion, require that the parties be consolidated analogous to the consolidation permitted under 10 CFR 2.715a. If the Commission consolidates two or more issues into a single consolidated issue but does not consolidate parties, each admitted person will be deemed a separate party with an individual right to:

(i) Submit separate written presentations,

(ii) Submit separate sets of proposed oral questions to be asked by the licensing board (*see* Section C.10 below),

(iii) Make separate oral presentation, and

(iv) Submit and separately respond to motions.

If the Commission also requires that parties be consolidated, the consolidated parties must participate jointly, including deciding upon written and oral presentations, submitting a single set of written questions, submitting motions supported by each of the consolidated parties, and responding to motions filed by other parties.

During the informal hearing, the licensing board may decide that further consolidation of issues or parties would simplify the overall conduct of informal hearings or materially reduce the time or resources devoted to the hearings. In these instances, the licensing board may direct such consolidation. The licensing board shall set forth the issues and/or parties to be consolidated and the reasons for such consolidation in a written order.

8. Status of the Design Certification Applicant, the NRC staff, and Requesting Party

The design certification applicant shall be a party in the informal hearing, with the right to submit written and oral presentations, propose questions to be asked by the licensing board of oral presenters, and file and submit appropriate motions.

The NRC staff shall not be a party in the informal hearing but shall be available in the informal hearing to answer licensing board questions about the FSER or the proposed rule, provide additional information or documentation with respect to the design certification, and provide other assistance that the licensing board may request without the NRC staff assuming the role of a party in the informal hearing.

A party whose hearing requests have been granted with respect to a particular controverted matter shall not participate with respect to any controverted matter on which the party was not granted a hearing. For example, if Person 1 has been authorized as a party on Issue A and Person 2 has been authorized as a party on Issue B, then Person 1 may participate only in the informal hearing on Issue A, and may not participate in the informal hearing on Issue B. Conversely, Person 2 may participate only in the informal hearing on Issue B, and may not participate in the informal hearing on Issue A.

9. Requests for Discovery

Any party may request the opportunity to conduct discovery against another party before the oral phase of the informal hearing. The request for discovery must:

(i) Identify the type of discovery permitted under 10 CFR 2.740, 2.740a, 2.740a(b), 2.741, and 2.742 which the party seeks to use;

(ii) Identify the subject matter or nature of the information sought to be obtained by discovery; and

(iii) Explain with particularity the relevance of the information sought to the controverted matter which is the subject of the hearing and why this information is indispensable to the presentation of the party's position on the controverted matter. The request shall be filed with the licensing board, with copies of the request to be filed with the party against which discovery is sought, and the NRC staff. The requests must be received no later than the deadline specified by the Commission in its decision granting a party's hearing request (*see* Section C.5. above). A party against whom discovery is sought may file a response objecting to part or all of the request. Such a response must explain with particularity why the discovery request should not be granted.

The licensing board shall review all discovery requests and refer to the Commission those requests that it believes should be granted within 7 days after the date for receiving a party's objections to a discovery request. The licensing board shall issue a written decision explaining its basis for either referring the request to the Commission or declining to refer it. The written decision shall accompany the discovery requests which are referred by the licensing board to the Commission.

The Commission will determine whether to grant any discovery requests forwarded to it based upon the licensing board's decision, together with the request and the design certification applicant's response (and any NRC staff response requested by the licensing board). Discovery will be at the discretion of the Commission. In this regard, the Commission notes that there are two docket files in which the NRC staff has placed information and documents received from the applicant for the AP600 design certification review. The application was docketed on December 31, 1992 and assigned Docket No. 52–003. Correspondence relating to the application prior to this date was addressed to Project No. 676. This information includes the AP600 Design Control Document, Revision 2 (3/99) and the AP600 Standard Safety Analysis Report, Revision 25. Furthermore, the docket files contain NRC staff communications and documents, such as written questions and comments provided to the design certification applicant, and summaries of meetings held between the NRC staff and the design certification applicant. The NRC staff's bases for approving the AP600 design are set forth in the FSER (NUREG–1512), dated September 1998. The Commission also notes that each admitted party has already disclosed a substantial amount of information in its hearing request, relating both to bases for the party's position with respect to the controverted matter as well as information on the qualifications of the party (or its representatives and witnesses in the hearing).

As discussed above, much of the information documenting the NRC staff's review and approval of the design certification application has been routinely placed in the docket file. Furthermore, as discussed above in Section C.8, the NRC staff is not a party in an informal hearing. Therefore, the Commission has decided that in an informal hearing, the parties should not be afforded discovery against the NRC staff.

10. Conduct of Informal Hearing

If the Commission authorizes discovery, the licensing board shall establish a schedule for the conduct and completion of discovery. Normally, the licensing board should not permit more than one round of discovery. The Commission will not entertain any interlocutory appeals from licensing board orders resolving any discovery disputes or otherwise complaining of the scheduling of discovery.

Following the completion of discovery, the licensing board should issue an order setting forth the date of commencement of the oral phase of each informal hearing, and the date (no less than 30 days before the commencement of the oral phase of the hearing) by which parties must submit:

(i) The identities and curriculum vitae of those persons providing oral presentations;

(ii) The outlines of the oral presentations; and

(iii) Any questions which a party would like the licensing board to ask.

The licensing board may schedule the oral phases of two or more informal hearings to be held during the same session. The licensing board shall publish a notice in the **Federal Register** announcing the commencement of the oral phase of the informal hearing(s). The notice shall set forth the place and time of the oral hearing session, the subject matter(s) of the informal hearing(s), a brief description of the informal hearing procedures, and a statement indicating that the public may observe the informal hearing.

Based upon the parties' outlines of the oral presentations and proposed questions, the licensing board should determine whether it has specific questions of the NRC staff with respect to the staff's review of the design certification application. These questions should be submitted in writing to the NRC staff no less than 20 days before the commencement of the oral phase of the hearing and must specify the date by which the NRC staff shall provide its written answers to the licensing board. The licensing board shall send copies of the request by overnight mail to all parties. The NRC staff shall file its written answers with the licensing board and the parties.

During the oral phase of the hearing, the licensing board shall receive into evidence the written presentations of the parties and permit each party (or the representatives identified in their hearing request) to make oral presentations addressing the controverted matter. Normally, the party raising the controverted matter should make their presentations, followed by the presentations of the design certification applicant. The licensing board may question the persons making oral presentations, using its own questions as well as those submitted to the licensing board by the other parties. Based upon the parties' oral presentations and/or responses to licensing board questions, the licensing board also may orally question the NRC staff.

11. Additional Hearing Procedures and Formal Hearings

After the parties have made their oral presentations and the licensing board has concluded its questioning of the presenters (and, as applicable, the NRC staff), the licensing board should declare that the oral phase of an informal hearing on a controverted matter (or consolidated set of controverted matters) is complete.

No later than 10 days after the licensing board has declared that the oral phase of the informal hearing has been completed, parties may file with the licensing board (with copies to the applicant and the NRC staff) a request that some or all of the procedures described in 10 CFR Part 2, Subpart G (*e.g.*, direct and cross-examination by the parties) be utilized. The request shall:

(i) Identify the specific hearing procedures which the party seeks, or state that a formal hearing is requested;

(ii) Identify the specific factual issues for which the additional procedures would be utilized;

(iii) Explain why resolution of these factual disputes are necessary to the Commission's decision on the controverted issue;

(iv) Explain, with specific citations to the hearing record, why the record is insufficient on the controverted matter; and

(v) Identify the nature of the evidence that would be developed utilizing the additional procedures requested.

The design certification applicant may file a response to these requests no later than 7 days after the applicant's receipt of a request for additional procedures. The NRC staff will not provide a response unless specifically requested to do so by the licensing board.

The licensing board will review all requests for additional hearing procedures or a formal hearing and refer those that it believes should be granted to the Commission for its determination. The licensing board shall issue a written decision explaining its determination whether to forward the request to the Commission no later than 7 days after receipt of any applicant response to the request. The decision will provide the basis for either forwarding the request to the Commission or declining to forward it. In the absence of any requests for hearing procedures or if the licensing board concludes that none of the requests should be referred to the Commission, the licensing board should declare that the hearing record is closed (*see* Section C.12 below).

The Commission will determine whether to grant any requests for additional procedures or a formal hearing that are forwarded by the licensing board. The Commission's determination shall be based upon the licensing board's decision along with the request and the design certification applicant's response. If the Commission directs that a formal hearing be held on a controverted factual matter, the NRC staff shall be a party in the formal hearing. Any formal hearing authorized by the Commission shall be conducted in accordance with the Commission's Statement of Policy on Conduct of Adjudicatory Proceedings. As noted in that Policy Statement, the Commission may, in individual cases, establish specific milestone schedules for the conduct of the formal hearing and require the presiding officer to explain and mitigate any significant deviations from that milestone schedule. After either the additional hearing procedures authorized by the Commission are completed or the formal hearing is concluded on the factual dispute, the licensing board should declare the hearing record closed (*see* Section C.12 below).

12. Licensing Board's Certification of Hearing Record to the Commission

After the oral phase of a hearing is completed and either:

(i) There are no requests for additional hearing procedures or a formal hearing; or

(ii) The licensing board concludes that none of the requests should be referred to the Commission, then the licensing board should declare that the hearing record is closed. If the Commission directs that additional hearing procedures should be utilized or

a formal hearing be held on specific factual disputes, the licensing board should declare the hearing record closed after completion of the additional hearing procedures or the formal hearing. Within 30 days of the closing of the hearing record the licensing board should certify the hearing record to the Commission on each controverted matter (or consolidated set of controverted matters).[6]

The licensing board's certification for each controverted matter (or consolidated set of controverted matters) shall contain:

(i) The hearing record, including a transcript of the oral phase of the hearing (and any pre-hearing conferences) and copies of all filings by the parties and the licensing board,

(ii) A list of all documentary evidence admitted by the licensing board, including the written presentations of the parties,

(iii) Copies of the documentary evidence admitted by the licensing board,

(iv) A list of all witnesses who provided oral testimony,

(v) The NRC staff's written answers to licensing board requests, and

(vi) A licensing board statement that the hearing record contains sufficient information for the Commission to make a reasoned determination on the controverted matter.

Finally, as discussed in Section C.6 above, the licensing board should identify any issues not raised by the parties or otherwise are not relevant to the controverted matters in the hearing, that the licensing board believes are significant enough to warrant attention by the Commission.

13. Parties' Proposed Findings of Fact and Conclusions

The applicant must file directly with the Commission proposed findings of fact and conclusions for each controverted hearing matter (or consolidated set of controverted matters) within 30 days following the close of the hearing record on that matter in the form of a proposed final rule and statement of considerations with respect to the controverted hearing issues.

Other parties are encouraged, but not required, to file with the Commission proposed findings of fact and conclusions limited to those issues which a party was afforded a hearing by the Commission (*i.e.*, a party may not file proposed findings of fact and conclusions on issues which it was not admitted). Any findings that a party wishes the Commission to consider must be received by the Commission no later than 30 days after the licensing board closes the hearing record on that issue. Although parties are not required to file proposed findings and conclusions, a party who does not file a finding may not, upon appeal, claim or otherwise argue that the Commission either misunderstood the party's position, or failed to address a specific piece of evidence or issue.

D. Resolution of Issues for the Final Rulemaking

1. Absence of Qualifying Hearing Request

If the Commission does not receive any request for hearing within the 75-day period for submitting a request, or does not grant any of the requests (see Section B. above), the Commission will determine whether the proposed design certification rule meets the applicable standards and requirements of the Atomic Energy Act of 1954, as amended (AEA), the National Environmental Policy Act of 1969, as amended (NEPA), and the Commission's rules and regulations. The Commission's determination will be based upon the rulemaking record, which includes: the application for design certification, including the AP600 Standard Safety Analysis Report (SSAR) and DCD; the applicant's responses to the NRC staff's requests for additional information; the NRC staff's FSER and any supplements thereto; the report on the application by the ACRS; the applicant's evaluation of severe accident mitigation design alternatives for purposes of NEPA in Appendix 1B of the SSAR; the NRC staff's draft EA and FONSI; the proposed rule, and the public comments received on the proposed rule. If the Commission makes an affirmative finding, it will issue a standard design certification in the form of a rule by adding a new appendix to 10 CFR Part 52, and publish the design certification rule and a statement of considerations in the **Federal Register**.

2. Commission Resolution of Issues Where a Hearing is Granted

All matters related to the proposed design certification rule, including those matters for which the Commission authorizes a hearing (*see* Sections B. and C. above), will be resolved by the Commission after the licensing board has closed the hearing record and certified it to the Commission. The Commission will determine whether the proposed design certification rule meets the applicable standards and requirements of the AEA, NEPA, and the Commission's rules and regulations. The Commission's determination will be based upon the rulemaking record as described in Section D.1 above, with the addition of the hearing record for controverted matters. If the Commission makes an affirmative finding, the Commission will issue a final design certification rule as described in Section D.1.

E. Access to Proprietary Information in Rulemaking

1. Access to Proprietary Information for the Preparation of Written Comments or Informal Hearing Requests

Persons who determine that they need to review proprietary information submitted by the design certification applicant to the NRC in order to submit written comments on the proposed certification or to prepare an informal hearing request, may request access to such information from the applicant.

The request shall state with particularity:

(i) The nature of the proprietary information sought,

(ii) The reason why the nonproprietary information currently available to the public in the NRC's Public Document Room is insufficient either to develop public comments or to prepare for the hearing,

(iii) The relevance of the requested information either to the issue which the commenter wishes to comment on, and

(iv) A showing that the person requesting the information has the capability to understand and utilize the requested information.

Requests must be filed with the applicant such that they are received by the applicant no later than 45 days after the date that this notice of proposed rulemaking is published in the **Federal Register**.

Within ten (10) days of receiving the request, the applicant must send a written response to the person seeking access. The response must either provide the documents requested (or state that the document will be provided no later than ten days after the date of the response), or state that access has been denied. If access is denied, the response shall state with particularity the reasons for its refusal. The applicant's response must be provided via express mail.

The person seeking access may then request a Commission hearing for the purpose of obtaining a Commission order directing the design certification

[6] An informal hearing is deemed to be completed when the period for requesting additional procedures or a formal hearing expires and no request is received.

applicant to disclose the requested information. The person must include copies of the original request (and any subsequent clarifying information provided by the person requesting access to the applicant) and the applicant's response. The Commission will base its decision solely on the person's original request (including any clarifying information provided to the applicant by the person requesting access), and the applicant's response. Accordingly, a person seeking access to proprietary information should ensure that the request sets forth in sufficient detail and particularity the information required to be included in the request. Similarly, the applicant should ensure that its response to any request states with sufficient detail and particularity the reasons for its refusal to provide the requested information.

If the Commission orders access in whole or part, the Commission will specify the date by which the requesting party must file with the Commission written comments and any request for an informal hearing before a licensing board as discussed in Section V.C. above. A request for an informal hearing must meet the requirements set forth above in Section V.C., in particular the requirements governing the content of the hearing request, and shall be governed by the procedures and standards governing such requests set forth in Section V.C.

2. Access to Proprietary Information in a Hearing

Parties who are granted a hearing may request access to proprietary information. Parties must first request access to proprietary information regarding the proposed design certification from the applicant. The request shall state with particularity:

(i) The nature of the proprietary information sought,

(ii) The reason why the nonproprietary information currently available to the public in the NRC's Public Document Room is insufficient to prepare for the hearing,

(iii) The relevance of the requested information to the hearing issue(s) for which the party has been admitted, and

(iv) A showing that the requesting party has the capability to understand and utilize the requested information.

The request must be filed with the applicant no later than the date established by the Commission for filing discovery requests with the licensing board.

If the applicant declines to provide the information sought, within 10 days of receiving the request, the applicant must send a written response to the requesting party setting forth with particularity the reasons for its refusal. The party may then request the licensing board to order disclosure. The party must include copies of the original request (and any subsequent clarifying information provided by the requesting party to the applicant) and the applicant's response. The licensing board shall base its decision solely on the party's original request (including any clarifying information provided by the requesting party to the applicant), and the applicant's response.

Accordingly, a party requesting proprietary information from the applicant should ensure that its request sets forth in sufficient detail and particularity the information required to be included in the request. Similarly, the applicant should ensure that its response to any request states with sufficient detail and particularity the reasons for its refusal to provide the requested information. The licensing board may order the applicant to provide access to some or all of the requested information, subject to an appropriate non-disclosure agreement.

F. Ex Parte and Separation of Functions Restrictions

Unless the formal procedures of 10 CFR Part 2, Subpart G are approved for a formal hearing in the design certification rulemaking proceeding, the NRC staff will not be a party in the hearing and separation of functions limitations will not apply. The NRC staff may assist in the hearing by answering questions about the FSER put to it by the licensing board, or to provide additional information, documentation, or other assistance as the licensing board may request. Furthermore, other than in a formal hearing, the NRC staff shall not be subject to discovery by any party, whether by way of interrogatory, deposition, or request for production of documents.

Second, the Commission has determined that once a request for an informal or formal hearing is received, certain elements of the ex parte restrictions in 10 CFR 2.780(a) will be applicable with respect to the subject matter of that hearing request. Under these restrictions, the Commission will communicate with interested persons/parties, the NRC staff, and the licensing board with respect to the issues covered by the hearing request only through docketed, publicly-available written communications and public meetings. Individual Commissioners may communicate privately with interested persons and the NRC staff; however, the substance of the communication shall be memorialized in a document which will be placed in the PDR and distributed to the licensing board and relevant parties.

III. Section-By-Section Discussion of Design Certification Rule

The proposed design certification rule (DCR) for the AP600 standard plant design is nearly identical to the two design certification rules for the U.S. ABWR and the System 80+ designs, which the NRC previously adopted. These DCRs are set forth in 10 CFR Part 52, Appendix A (U.S. ABWR, 62 FR 25800, May 12, 1997) and Appendix B (System 80+, 62 FR 27840, May 21, 1997). The AP600 DCR emulates the U.S. ABWR and System 80+ DCRs, inasmuch as the three designs were reviewed contemporaneously against the same technical requirements. Furthermore, many of the procedural issues and their resolutions for the ABWR and the System 80+ DCRs (*e.g.*, the two-tier structure, Tier 2*, the scope of issue resolution) were developed after extensive discussions with nuclear industry representatives, and Westinghouse participated in those discussions. It was the NRC's intent (and likely Westinghouse's expectation) that the resolutions for these issues in the ABWR and System 80+ rulemakings would also be applied to the AP600 rule. Accordingly, the NRC has modeled the AP600 DCR on the existing DCRs for the ABWR and System 80+, with certain departures. These departures are necessary to reflect that Westinghouse is the applicant for the AP600 DCR, and to account for differences in the AP600 design documentation, design features (including the investment protection short-term availability controls), and environmental assessment (including severe accident mitigation design alternatives).

The following discussion sets forth the purpose and key aspects of each section and paragraph of the proposed AP600 design certification rule. All section and paragraph references are to the provisions in the proposed Appendix C to 10 CFR Part 52.

A. Introduction

The purpose of Section I of Appendix C to 10 CFR Part 52 (''this appendix'') is to identify the standard plant design that is approved by this design certification rule and the applicant for certification of the standard design. Identification of the design certification applicant is necessary to implement this appendix, for two reasons. First, the implementation of 10 CFR 52.63(c) depends on whether an applicant for a combined license (COL) contracts with

the design certification applicant to provide the generic DCD and supporting design information. If the COL applicant does not use the design certification applicant to provide this information, then the COL applicant must meet the requirements in 10 CFR 52.63(c). Also, X.A.1 of this appendix imposes a requirement on the design certification applicant to maintain the generic DCD throughout the time period in which this appendix may be referenced.

B. Definitions

The terms Tier 1, Tier 2, Tier 2*, and COL action items (license information) are defined in this appendix because these concepts were not envisioned when 10 CFR Part 52 was developed. The design certification applicants and the NRC staff used these terms in implementing the two-tiered rule structure that was proposed by representatives of the nuclear industry after issuance of 10 CFR Part 52. During consideration of the comments received on Appendices A and B to Part 52, the Commission determined that it would be useful to distinguish between the ''plant-specific DCD'' and the ''generic DCD,'' the latter of which is incorporated by reference into this appendix and remains unaffected by plant-specific departures. This distinction is necessary in order to clarify the obligations of applicants and licensees that reference this appendix. Also, the technical specifications that are located in Section 16.1 of the generic DCD are designated as ''generic technical specifications'' in order to facilitate the special treatment of this information under this appendix. Therefore, appropriate definitions for these additional terms are included in this appendix.

The Tier 1 portion of the design-related information contained in the DCD is certified by this appendix and, therefore, subject to the special backfit provisions in VIII.A of this appendix. An applicant who references this appendix is required to incorporate by reference and comply with Tier 1, under III.B and IV.A.1 of this appendix. This information consists of an introduction to Tier 1, the system based and non-system based design descriptions and corresponding inspections, tests, analyses, and acceptance criteria (ITAAC), significant interface requirements, and significant site parameters for the design. The design descriptions, interface requirements, and site parameters in Tier 1 were derived entirely from Tier 2, but may be more general than the Tier 2 information. The NRC staff's evaluation of the Tier 1 information is provided in Section 14.3 of the FSER. Changes to or departures from the Tier 1 information must comply with Section VIII.A of this appendix.

The Tier 1 design descriptions serve as design commitments for the lifetime of a facility referencing the design certification. The ITAAC verify that the as-built facility conforms with the approved design and applicable regulations. In accordance with 10 CFR 52.103(g), the Commission must find that the acceptance criteria in the ITAAC are met before operation. After the Commission has made the finding required by 10 CFR 52.103(g), the ITAAC do not constitute regulatory requirements for licensees or for renewal of the COL. However, subsequent modifications to the facility must comply with the design descriptions in the plant-specific DCD unless changes are made in accordance with the change process in Section VIII of this appendix. The Tier 1 interface requirements are the most significant of the interface requirements for systems that are wholly or partially outside the scope of the standard design, which were submitted in response to 10 CFR 52.47(a)(1)(vii) and must be met by the site-specific design features of a facility that references this appendix. The Tier 1 site parameters are the most significant site parameters, which were submitted in response to 10 CFR 52.47(a)(1)(iii). An application that references this appendix must demonstrate that the site parameters (both Tier 1 and Tier 2) are met at the proposed site (refer to III.D of this SOC).

Tier 2 is the portion of the design-related information contained in the DCD that is approved by this appendix but is not certified. Tier 2 information is subject to the backfit provisions in VIII.B of this appendix. Tier 2 includes the information required by 10 CFR 52.47 (with the exception of generic technical specifications, conceptual design information, and the evaluation of severe accident mitigation design alternatives) and the supporting information on inspections, tests, and analyses that will be performed to demonstrate that the acceptance criteria in the ITAAC have been met. As with Tier 1, III.B and IV.A.1 of this appendix require an applicant who references this appendix to incorporate Tier 2 by reference and to comply with Tier 2, except for the COL action items, including the investment protection short-term availability controls in Section 16.3 of the generic DCD. The definition of Tier 2 makes clear that Tier 2 information has been determined by the Commission, by virtue of its inclusion in this appendix and its designation as Tier 2 information, to be an approved (''sufficient'') method for meeting Tier 1 requirements. However, there may be other acceptable ways of complying with Tier 1. The appropriate criteria for departing from Tier 2 information are specified in Section VIII.B of this appendix. Departures from Tier 2 do not negate the requirement in Section III.B to reference Tier 2.

A definition of ''combined license (COL) action items'' (combined license information), which is part of the Tier 2 information, has been added to clarify that COL applicants, who reference this appendix, are required to address these matters in their license application, but the COL action items are not the only acceptable set of information. An applicant may depart from or omit these items, provided that the departure or omission is identified and justified in the FSAR. After issuance of a construction permit or combined license, these items are not requirements for the licensee unless such items are restated in its FSAR.

The investment protection short-term availability controls, which are set forth in Section 16.3 of the generic DCD, were added to the list of information that is part of Tier 2. This set of requirements was added to Tier 2 to make it clear that the availability controls are not operational requirements for the purposes of VIII.C of this appendix. Rather, the availability controls are associated with specific design features, and the availability controls may be changed if the associated design feature is changed under VIII.B of this appendix.

Certain Tier 2 information has been designated in the generic DCD with brackets and italicized text as ''Tier 2*'' information and, as discussed in greater detail in the section-by-section explanation for Section VIII.B, a plant-specific departure from Tier 2* information requires prior NRC approval. However, the Tier 2* designation expires for some of this information when the facility first achieves full power after the finding required by 10 CFR 52.103(g). The process for changing Tier 2* information and the time at which its status as Tier 2* expires is set forth in VIII.B.6 of this appendix. Some Tier 2* requirements, concerning special preoperational tests, are designated to be performed only for the first plant or first three plants referencing the AP600 DCR. The Tier 2* designation for these selected tests will expire after the first plant or first three plants complete the specified tests. However, a COL action item requires that subsequent plants shall also perform the tests or justify

that the results of the first-plant-only or first-three-plants-only tests are applicable to the subsequent plant. The Commission is interested in comments addressing whether the first-plant-only or first-three-plants-only limitations should be part of the Tier 2* information for these specified tests.

During development of Appendices A and B to Part 52, the Commission decided that there would be both generic (master) DCDs maintained by the NRC and the design certification applicant, as well as individual plant-specific DCDs, maintained by each applicant and licensee who references this appendix. The generic DCDs (identical to each other) would reflect generic changes to the version of the DCD approved in this design certification rulemaking. The generic changes would occur as the result of generic rulemaking by the Commission (subject to the change criteria in Section VIII of this appendix). In addition, the Commission understood that each applicant and licensee referencing this appendix would be required to submit and maintain a plant-specific DCD. This plant-specific DCD would contain (not just incorporate by reference) the information in the generic DCD. The plant-specific DCD would be updated as necessary to reflect the generic changes to the DCD that the Commission may adopt through rulemaking, any plant-specific departures from the generic DCD that the Commission imposed on the licensee by order, and any plant-specific departures that the licensee chose to make in accordance with the relevant processes in Section VIII of this appendix. Thus, the plant-specific DCD would function akin to an updated Final Safety Analysis Report, in the sense that it would provide the most complete and accurate information on a plant's licensing basis for that part of the plant within the scope of this appendix. Therefore, this appendix defines both a generic DCD and plant-specific DCD. Also, the Commission decided to treat the technical specifications in Section 16.1 of the generic DCD as a special category of information and to designate them as generic technical specifications. A COL applicant must submit plant-specific technical specifications that consist of the generic technical specifications, which may be modified under VIII.C of this appendix, and the remaining plant-specific information needed to complete the technical specifications, including bracketed values. The Final Safety Analysis Report (FSAR) that is required by § 52.79(b) will consist of the plant-specific DCD, the site-specific portion of the FSAR, and the plant-specific technical specifications.

C. Scope and Contents

The purpose of Section III of this appendix is to describe and define the scope and contents of this design certification and to set forth how documentation discrepancies or inconsistencies are to be resolved. Paragraph A is the required statement of the Office of the Federal Register (OFR) for approval of the incorporation by reference of Tier 1, Tier 2, and the generic technical specifications into this appendix and paragraph B requires COL applicants and licensees to comply with the requirements of this appendix. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly-issued regulation, has the force and effect of law. Tier 1 and Tier 2 information, as well as the generic technical specifications, have been combined into a single document called the generic design control document, in order to effectively control this information and facilitate its incorporation by reference into the rule. The generic DCD was prepared to meet the requirements of the OFR for incorporation by reference (1 CFR Part 51). One of the requirements of OFR for incorporation by reference is that the design certification applicant must make the generic DCD available upon request after the final rule becomes effective. Therefore, III.A of this appendix identifies a representative of Westinghouse who can be contacted to obtain a copy of the generic DCD.

Paragraphs A and B also identify the investment protection short-term availability controls in Section 16.3 of the generic DCD as part of the Tier 2 information. During its review of the AP600 design, the NRC determined that residual uncertainties associated with passive safety system performance increased the importance of non-safety-related active systems in providing defense-in-depth functions that back-up the passive systems. As a result, Westinghouse developed some administrative controls to provide a high level of confidence that active systems having a significant safety role are available when challenged. Westinghouse named these additional controls ''investment protection short-term availability controls,'' and the Commission included this statement in Section III to ensure that these availability controls are binding on applicants and licensees that reference this appendix and will be enforceable by the NRC. The NRC's evaluation of the availability controls is provided in Chapter 22 of the FSER.

The generic DCD (master copy) for this design certification will be archived at NRC's central file with a matching copy at OFR. Copies of the up-to-date generic DCD will also be available at the NRC's Public Document Room. Questions concerning the accuracy of information in an application that references this appendix will be resolved by checking the master copy of the generic DCD in NRC's central file. If a generic change (rulemaking) is made to the DCD pursuant to the change process in Section VIII of this appendix, then at the completion of the rulemaking the NRC will request approval of the Director, OFR for the changed incorporation by reference and change its copies of the generic DCD and notify the OFR and the design certification applicant to change their copies. The Commission is requiring that the design certification applicant maintain an up-to-date copy under X.A.1 of this appendix because it is likely that most applicants intending to reference the standard design will obtain the generic DCD from the design certification applicant. Plant-specific changes to and departures from the generic DCD will be maintained by the applicant or licensee that references this appendix in a plant-specific DCD, under X.A.2 of this appendix.

In addition to requiring compliance with this appendix, paragraph B clarifies that the conceptual design information and Westinghouse's evaluation of severe accident mitigation design alternatives are not considered to be part of this appendix. The conceptual design information is for those portions of the plant that are outside the scope of the standard design and are intermingled throughout Tier 2. As provided by 10 CFR 52.47(a)(1)(ix), these conceptual designs are not part of this appendix and, therefore, are not applicable to an application that references this appendix. Therefore, the applicant does not need to conform with the conceptual design information that was provided by the design certification applicant. The conceptual design information, which consists of site-specific design features, was required to facilitate the design certification review. Conceptual design information is neither Tier 1 nor Tier 2. Section 1.8 of Tier 2 identifies the location of the conceptual design information. Westinghouse's evaluation of various design alternatives to prevent and mitigate severe accidents does not constitute design requirements. The Commission's assessment of this information is discussed in Section IV

of this SOC on environmental impacts. The detailed methodology and quantitative portions of the design-specific probabilistic risk assessment (PRA), as required by 10 CFR 52.47(a)(1)(v), were not included in the generic DCD, as requested by NEI and the applicant for design certification. The NRC agreed with the request to delete this information because conformance with the deleted portions of the PRA is not necessary. Also, the NRC's position is predicated in part upon NEI's acceptance, in conceptual form, of a future generic rulemaking that will require a COL applicant or licensee to have a plant-specific PRA that updates and supersedes the design-specific PRA supporting this rulemaking and maintain it throughout the operational life of the facility.

Paragraphs C and D set forth the manner in which potential conflicts are to be resolved. Paragraph C establishes the Tier 1 description in the DCD as controlling in the event of an inconsistency between the Tier 1 and Tier 2 information in the DCD. Paragraph D establishes the generic DCD as the controlling document in the event of an inconsistency between the DCD and either the application for certification of the AP600 design (AP600 Standard Safety Analysis Report) or the final safety evaluation report for the certified standard design.

Paragraph E makes it clear that design activities that are wholly outside the scope of this design certification may be performed using site-specific design parameters, provided the design activities do not affect Tier 1 or Tier 2, or conflict with the interface requirements in the DCD. This provision applies to site-specific portions of the plant, such as the administration building. Because this statement is not a definition, the Commission decided that the appropriate location is in Section III of this appendix.

D. Additional Requirements and Restrictions

Section IV of this appendix sets forth additional requirements and restrictions imposed upon an applicant who references this appendix. Paragraph IV.A sets forth the information requirements for these applicants. This appendix distinguishes between information and/or documents which must actually be included in the application or the DCD, versus those which may be incorporated by reference (i.e., referenced in the application as if the information or documents were actually included in the application), thereby reducing the physical bulk of the application. Any incorporation by reference in the application should be clear and should specify the title, date, edition, or version of a document, and the page number(s) and table(s) containing the relevant information to be incorporated by reference.

Paragraph A.1 requires an applicant who references this appendix to incorporate by reference this appendix in its application. The legal effect of such incorporation by reference is that this appendix is legally binding on the applicant or licensee. Paragraph A.2.a is intended to make clear that the initial application must include a plant-specific DCD. This assures, among other things, that the applicant commits to complying with the DCD. This paragraph also requires the plant-specific DCD to use the same format as the generic DCD and to reflect the applicant's proposed departures and exemptions from the generic DCD as of the time of submission of the application. The Commission expects that the plant-specific DCD will become the plant's final safety analysis report (FSAR), by including within its pages, at the appropriate points, information such as site-specific information for the portions of the plant outside the scope of the referenced design, including related ITAAC, and other matters required to be included in an FSAR by 10 CFR 50.34 and 52.79. Integration of the plant-specific DCD and remaining site-specific information into the plant's FSAR, will result in an application that is easier to use and should minimize ''duplicate documentation'' and the attendant possibility for confusion. Paragraph A.2.a is also intended to make clear that the initial application must include the reports on departures and exemptions as of the time of submission of the application.

Paragraph A.2.b requires that the application include the reports required by paragraph X.B of this appendix for exemptions and departures proposed by the applicant as of the date of submission of its application. Paragraph A.2.c requires submission of plant-specific technical specifications for the plant that consists of the generic technical specifications from Section 16.1 of the DCD, with any changes made under Section VIII.C of this appendix, and the technical specifications for the site-specific portions of the plant that are either partially or wholly outside the scope of this design certification. The applicant must also provide the plant-specific information designated in the generic technical specifications, such as bracketed values.

Paragraph A.2.d makes it clear that the applicant must provide information demonstrating that the proposed site falls within the site parameters for this appendix and that the plant-specific design complies with the interface requirements, as required by 10 CFR 52.79(b). If the proposed site has a characteristic that exceeds one or more of the site parameters in the DCD, then the proposed site is unacceptable for this design unless the applicant seeks an exemption under Section VIII of this appendix and justifies why the certified design should be found acceptable on the proposed site. Paragraph A.2.e requires submission of information addressing COL Action Items, which are identified in the generic DCD as Combined License Information, in the application. The Combined License Information identifies matters that need to be addressed by an applicant that references this appendix, as required by Subpart C of 10 CFR Part 52. An applicant may depart from or omit these items, provided that the departure or omission is identified and justified in its application (FSAR). Paragraph A.2.f requires that the application include the information required by 10 CFR 52.47(a) that is not within the scope of this rule, such as generic issues that must be addressed, in whole or in part, by an applicant that references this rule. Paragraph A.3 requires the applicant to physically include, not simply reference, the proprietary and safeguards information referenced in the DCD, or its equivalent, to assure that the applicant has actual notice of these requirements.

Paragraph IV.B reserves to the Commission the right to determine in what manner this design certification may be referenced by an applicant for a construction permit or operating license under 10 CFR Part 50. This determination may occur in the context of a subsequent rulemaking modifying 10 CFR Part 52 or this design certification rule, or on a case-by-case basis in the context of a specific application for a 10 CFR Part 50 construction permit or operating license. This provision is necessary because the previous design certifications were not implemented in the manner that was originally envisioned at the time that 10 CFR Part 52 was created. The Commission's concern is with the manner in which ITAAC were developed and the lack of experience with design certifications in license proceedings. Therefore, it is appropriate to have some uncertainty regarding the manner in which this appendix could be referenced in a 10 CFR Part 50 licensing proceeding.

E. Applicable Regulations

The purpose of Section V of this appendix is to specify the regulations that will be applicable and in effect (if and) when this proposed design certification is approved. These regulations will consist of the technically relevant regulations identified in paragraph A, except for the regulations in paragraph B that will not be applicable to this certified design.

Paragraph A will identify the regulations in 10 CFR Parts 20, 50, 73, and 100 that are applicable to the AP600 design. The Commission's determination of the applicable regulations will be made as of the date specified in paragraph V.A of this appendix, which will be the date that this appendix is approved by the Commission and signed by the Secretary.

In paragraph V.B of this appendix, the Commission identified the regulations that do not apply to the AP600 design. The Commission has determined that the AP600 design should be exempt from portions of 10 CFR 50.34, 50.62, and Appendix A to Part 50, as described in the FSER (NUREG–1512) and summarized below:

(1) Paragraph (a)(1) of 10 CFR 50.34—whole body dose criterion.

This regulation sets forth dose criteria to be used in siting determinations. The NRC staff performed its evaluation of the radiological consequences of postulated design basis accidents for the AP600 design against the dose criterion specified in 10 CFR 50.34(a)(1)(ii)(D) because it was the Commission's intent that the new dose criterion be used for future nuclear power plants. However, when the NRC codified the new reactor site criteria for nuclear power plants (61 FR 65157; December 11, 1996), it made an error in the assignment of applicants that could use the new dose criterion [25 rem TEDE], versus those that must use the whole body criterion. The assignment of applicants in 10 CFR 50.34(a)(1), who must use the whole body criterion, should not have included applicants for a design certification or combined license who applied prior to January 10, 1997 (refer to 61 FR 65158). The Commission adopted 25 rem TEDE as the new dose criterion for future plant evaluation purposes, because this value is essentially the same level of risk as the current criterion (61 FR 65160). Therefore, the Commission has determined that the special circumstances described in 10 CFR 50.12(a)(2)(ii) exist in that application of the 25 rem whole body criterion is not necessary to achieve the underlying purpose of the rule because 25 rem TEDE is essentially the same level of risk. On this basis, the Commission concludes that the AP600 design review can be performed pursuant to the new dose criterion [25 rem TEDE] and an exemption from the requirements of 10 CFR 50.34(a)(1) is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

(2) Paragraph (f)(2)(iv) of 10 CFR 50.34—Plant Safety Parameter Display Console.

10 CFR 50.34(f)(2)(iv) requires that an application provide a plant safety parameter display console that will display to operators a minimum set of parameters defining the safety status of the plant, be capable of displaying a full range of important plant parameters and data trends on demand, and be capable of indicating when process limits are being approached or exceeded. Westinghouse answered this requirement, in Section 18.8.2 of the DCD, with an integrated design rather than a stand-alone, add-on system, as is used at most current operating plants. Specifically, Westinghouse integrated the SPDS requirements into the design requirements for the alarm and display systems. In NUREG–0800, the NRC staff indicated that, for applicants who are in the early stages of the control room design, the ''function of a separate SPDS may be integrated into the overall control room design'' (p. 18.0–1). Therefore, the Commission has determined that the special circumstances described in 10 CFR 50.12(a)(2)(ii) exist in that the requirement for an SPDS console need not be applied in this particular circumstance to achieve the underlying purpose because Westinghouse has provided an acceptable alternative that accomplishes the intent of the regulation. On this basis, the Commission concludes that an exemption from the requirements of 10 CFR 50.34(f)(2)(iv) is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

(3) Paragraphs (f)(2)(vii), (viii), (xxvi), and (xxviii) of 10 CFR 50.34—Accident Source Terms in TID 14844.

Pursuant to 10 CFR 52.47(a)(ii), an applicant for design certification must demonstrate compliance with any technically relevant TMI requirements in 10 CFR 50.34(f). The TMI requirements in 10 CFR 50.34(f)(2)(vii), (viii), (xxvi), and (xxviii) refer to the accident source term in TID 14844. Specifically, 10 CFR 50.34(f)(2)(xxviii) requires the evaluation of pathways that may lead to control room habitability problems ''under accident conditions resulting in a TID 14844 source term release.'' Similar wording appears in requirements (vii), (viii), and (xxvi). Westinghouse has adopted the new source term technology summarized in NUREG–1465, ''Accident Source Terms for Light-Water Nuclear Power Plants,'' dated February 1995, not the old TID 14844 source term cited in 10 CFR Part 50.34(f). The Commission has determined that the special circumstances described in 10 CFR 50.12(a)(ii) exist in that these regulations need not be applied in this particular circumstance to achieve the underlying purpose because Westinghouse has adopted acceptable alternatives that accomplish the intent of the regulations that specify TID 14844. On this basis, the Commission concludes that a partial exemption from the requirements of paragraphs (f)(2)(vii), (viii), (xxvi), and (xxviii) of 10 CFR 50.34 is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

(4) Paragraph (c)(1) of 10 CFR 50.62—Auxiliary feedwater system.

The AP600 design relies on the passive residual heat removal system (PRHR) in lieu of an auxiliary or emergency feedwater system as its safety-related method of removing decay heat. Westinghouse requested an exemption from a portion of 10 CFR 50.62(c)(1), which requires auxiliary or emergency feedwater as an alternate system for decay heat removal during an ATWS event. The NRC staff concluded that Westinghouse met the intent of the rule by relying on the PRHR system to remove the decay heat and, thereby, met the underlying purpose of the rule. Therefore, the Commission has determined that the special circumstances described in 10 CFR 50.12(a)(2)(ii) exist in that the requirement for an auxiliary or emergency feedwater system is not necessary to achieve the underlying purpose of 10 CFR 50.62(c)(1), because Westinghouse has adopted acceptable alternatives that accomplish the intent of this regulation, and the exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

(5) Appendix A to 10 CFR Part 50, GDC 17—Offsite Power Sources.

Westinghouse requested a partial exemption from the requirement in GDC 17 for a second offsite power supply circuit. The AP600 plant design supports an exemption to this requirement by providing safety-related ''passive'' systems. These passive safety-

related systems only require electric power for valves and the related instrumentation. The onsite Class 1E batteries and associated dc and ac distribution systems can provide the power for these valves and instrumentation. In addition, if no offsite power is available, it is expected that the non-safety-related onsite diesel generators would be available for important plant functions; however, this non-safety-related ac power is not relied on to maintain core cooling or containment integrity. Therefore, the Commission has determined that the special circumstances described in 10 CFR 50.12(a)(2)(ii) exist in that the requirement need not be applied in this particular circumstance to achieve the underlying purpose of having two offsite power sources because the AP600 design includes an acceptable alternative approach to accomplish safety functions that does not rely on power from the offsite system and, therefore, accomplishes the intent of the regulation. On this basis, the Commission concludes that a partial exemption from the requirements of GDC 17 is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

(6) Appendix A to 10 CFR Part 50, GDC 19—whole body dose criterion.

The NRC staff used a criterion of 5 rem TEDE for evaluating the radiological consequences of design basis accidents in the control room of the AP600 design, under GDC 19 of Appendix A to 10 CFR Part 50. The NRC staff used the 5 rem TEDE criterion to be consistent with the new reactor site criteria in 10 CFR 50.34(a)(1) [61 FR 65157], although GDC 19 specifies . . . ''5 rem whole body, or its equivalent to any part of the body''. . . The Commission adopted 25 rem TEDE as the new dose criterion for plant evaluation purposes, because this value is essentially the same level of risk as the current criteria (61 FR 65160). Therefore, the Commission has determined that the special circumstances described in 10 CFR 50.12(a)(2)(ii) exist in that application of the 5 rem whole body criterion is not necessary to achieve the underlying purpose of the rule because 5 rem TEDE is essentially the same level of risk. On this basis, the Commission concludes that a partial exemption from GDC 19 is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security.

F. Issue Resolution

The purpose of Section VI of this appendix is to identify the scope of issues that are resolved by the Commission in this rulemaking and; therefore, are ''matters resolved'' within the meaning and intent of 10 CFR 52.63(a)(4). The section is divided into five parts: (A) the Commission's safety findings in adopting this appendix, (B) the scope and nature of issues which are resolved by this rulemaking, (C) issues which are not resolved by this rulemaking, (D) the backfit restrictions applicable to the Commission with respect to this appendix, and (E) the availability of secondary references.

Paragraph A describes in general terms the nature of the Commission's findings, and makes the finding required by 10 CFR 52.54 for the Commission's approval of this design certification rule. Furthermore, paragraph A explicitly states the Commission's determination that this design provides adequate protection of the public health and safety.

Paragraph B sets forth the scope of issues which may not be challenged as a matter of right in subsequent proceedings. The introductory phrase of paragraph B clarifies that issue resolution as described in the remainder of the paragraph extends to the delineated NRC proceedings referencing this appendix. The remainder of paragraph B describes the categories of information for which there is issue resolution. Specifically, paragraph B.1 provides that all nuclear safety issues arising from the Atomic Energy Act of 1954, as amended, that are associated with the information in the NRC staff's FSER (NUREG–1512), the Tier 1 and Tier 2 information (including the availability controls in Section 16.3 of the generic DCD), and the rulemaking record for this appendix are resolved within the meaning of § 52.63(a)(4). These issues include the information referenced in the DCD that are requirements (i.e., ''secondary references''), as well as all issues arising from proprietary and safeguards information which are intended to be requirements. Paragraph B.2 provides for issue preclusion of proprietary and safeguards information. Paragraphs B.3, B.4, B.5, and B.6 clarify that approved changes to and departures from the DCD which are accomplished in compliance with the relevant procedures and criteria in Section VIII of this appendix continue to be matters resolved in connection with this rulemaking. Paragraph B.7 provides that, for those plants located on sites whose site parameters do not exceed those assumed in Westinghouse's evaluation of severe accident mitigation design alternatives (SAMDAs), all issues with respect to SAMDAs arising under the National Environmental Policy Act of 1969 associated with the information in the Environmental Assessment for this design and the information regarding SAMDAs in Appendix 1B of the generic DCD are also resolved within the meaning and intent of § 52.63(a)(4). In the event an exemption from a site parameter is granted, the exemption applicant has the initial burden of demonstrating that the original SAMDA analysis still applies to the actual site parameters but, if the exemption is approved, requests for litigation at the COL stage must meet the requirements of § 2.714 and present sufficient information to create a genuine controversy in order to obtain a hearing on the site parameter exemption.

Paragraph C reserves the right of the Commission to impose operational requirements on applicants that reference this appendix. This provision reflects the fact that operational requirements, including generic technical specifications in Section 16.1 of the DCD, were not completely or comprehensively reviewed at the design certification stage. Therefore, the special backfit provisions of § 52.63 do not apply to operational requirements. However, all design changes will be controlled by the appropriate provision in Section VIII of this appendix. Although the information in the DCD that is related to operational requirements was necessary to support the NRC staff's safety review of this design, the review of this information was not sufficient to conclude that the operational requirements are fully resolved and ready to be assigned finality under § 52.63. As a result, if the NRC wanted to change a temperature limit and that operational change required a consequential change to a design feature, then the temperature limit backfit would be controlled by Section VIII (paragraph A or B) of this appendix. However, changes to other operational issues, such as in-service testing and in-service inspection programs, post-fuel load verification activities, and shutdown risk that do not require a design change would not be restricted by § 52.63 (see VIII.C of this appendix). Paragraph C does allow the NRC to impose future operational requirements (distinct from design matters) on applicants who reference this design certification. Also, license conditions for portions of the plant within the scope of this design certification, e.g. start-up and power

ascension testing, are not restricted by § 52.63. The requirement to perform these testing programs is contained in Tier 1 information. However, ITAAC cannot be specified for these subjects because the matters to be addressed in these license conditions cannot be verified prior to fuel load and operation, when the ITAAC are satisfied. Therefore, another regulatory vehicle is necessary to ensure that licensees comply with the matters contained in the license conditions. License conditions for these areas cannot be developed now because this requires the type of detailed design information that will be developed after design certification. In the absence of detailed design information to evaluate the need for and develop specific post-fuel load verifications for these matters, the Commission is reserving the right to impose license conditions by rule for post-fuel load verification activities for portions of the plant within the scope of this design certification.

Paragraph D reiterates the restrictions (contained in Section VIII of this appendix) placed upon the Commission when ordering generic or plant-specific modifications, changes or additions to structures, systems or components, design features, design criteria, and ITAAC (VI.D.3 addresses ITAAC) within the scope of the certified design.

Paragraph E provides the procedure for an interested member of the public to obtain access to proprietary or safeguards information for the AP600 design, in order to request and participate in proceedings identified in VI.B of this appendix, viz., proceedings involving licenses and applications which reference this appendix. As set forth in paragraph E, access must first be sought from the design certification applicant. If Westinghouse refuses to provide the information, the person seeking access shall request access from the Commission or the presiding officer, as applicable. Access to the proprietary or safeguards information may be ordered by the Commission, but must be subject to an appropriate non-disclosure agreement.

G. Duration of This Appendix

The purpose of Section VII of this appendix is in part to specify the time period during which this design certification may be referenced by an applicant for a combined license, under 10 CFR 52.55. This section also states that the design certification remains valid for an applicant or licensee that references the design certification until the application is withdrawn or the license expires. Therefore, if an application references this design certification during the 15-year period, then the design certification continues in effect until the application is withdrawn or the license issued on that application expires. Also, the design certification continues in effect for the referencing license if the license is renewed. The Commission intends for this appendix to remain valid for the life of the plant that references the design certification to achieve the benefits of standardization and licensing stability. This means that changes to or plant-specific departures from information in the plant-specific DCD must be made pursuant to the change processes in Section VIII of this appendix for the life of the plant.

H. Processes for Changes and Departures

The purpose of Section VIII of this appendix is to set forth the processes for generic changes to or plant-specific departures (including exemptions) from the DCD. The Commission adopted this restrictive change process in order to achieve a more stable licensing process for applicants and licensees that reference this design certification rule. Section VIII is divided into three paragraphs, which correspond to Tier 1, Tier 2, and Operational requirements. The language of Section VIII distinguishes between generic changes to the DCD versus plant-specific departures from the DCD. Generic changes must be accomplished by rulemaking because the intended subject of the change is the design certification rule itself, as is contemplated by 10 CFR 52.63(a)(1). Consistent with 10 CFR 52.63(a)(2), any generic rulemaking changes are applicable to all plants, absent circumstances which render the change [''modification'' in the language of § 52.63(a)(2)] ''technically irrelevant.'' By contrast, plant-specific departures could be either a Commission-issued order to one or more applicants or licensees; or an applicant or licensee-initiated departure applicable only to that applicant's or licensee's plant(s), similar to a § 50.59 departure or an exemption. Because these plant-specific departures will result in a DCD that is unique for that plant, Section X of this appendix requires an applicant or licensee to maintain a plant-specific DCD. For purposes of brevity, this discussion refers to both generic changes and plant-specific departures as ''change processes.''

Both Section VIII of this appendix and this SOC refer to an ''exemption'' from one or more requirements of this appendix and the criteria for granting an exemption. The Commission cautions that where the exemption involves an underlying substantive requirement (applicable regulation), then the applicant or licensee requesting the exemption must also show that an exemption from the underlying applicable requirement meets the criteria of 10 CFR 50.12.

Tier 1 Information

The change processes for Tier 1 information are covered in paragraph VIII.A. Generic changes to Tier 1 are accomplished by rulemaking that amends the generic DCD and are governed by the standards in 10 CFR 52.63(a)(1). This provision provides that the Commission may not modify, change, rescind, or impose new requirements by rulemaking except where necessary either to bring the certification into compliance with the Commission's regulations applicable and in effect at the time of approval of the design certification or to ensure adequate protection of the public health and safety or common defense and security. The rulemakings must include an opportunity for hearing with respect to the proposed change, as required by 10 CFR 52.63(a)(1), and the Commission expects such hearings to be conducted in accordance with 10 CFR Part 2, Subpart H. Departures from Tier 1 may occur in two ways: (1) the Commission may order a licensee to depart from Tier 1, as provided in paragraph A.3; or (2) an applicant or licensee may request an exemption from Tier 1, as provided in paragraph A.4. If the Commission seeks to order a licensee to depart from Tier 1, paragraph A.3 requires that the Commission find both that the departure is necessary for adequate protection or for compliance, and that special circumstances are present. Paragraph A.4 provides that exemptions from Tier 1 requested by an applicant or licensee are governed by the requirements of 10 CFR 52.63(b)(1) and 52.97(b), which provide an opportunity for a hearing. In addition, the Commission will not grant requests for exemptions that may result in a significant decrease in the level of safety otherwise provided by the design.

Tier 2 Information

The change processes for the three different categories of Tier 2 information, viz., Tier 2, Tier 2*, and Tier 2* with a time of expiration, are set forth in paragraph VIII.B. The change process for Tier 2 has the same elements as the Tier 1 change process, but some of the standards for plant-specific orders and exemptions are different. The Commission adopted a ''50.59-like'' change process for Tier 2 information,

in accordance with its SRMs on SECY–90–377 and SECY–92–287A. The Commission is currently considering revisions to 10 CFR 50.59. After the Section 50.59 rulemaking is complete, the Commission will determine whether any comparable revisions should be made to the ''50.59-like'' portion of the Tier 2 change process (see Section VIII.B.5 of this appendix). As stated at the beginning of Section III, ''Section-by-section discussion of design certification rule,'' it is the Commission's intent that this appendix emulate Appendices A and B to 10 CFR Part 52, at this time. Therefore, the Commission will consider updating 10 CFR Part 52, including the Appendices, in an upcoming Part 52 rulemaking (see SECY–98–282) and it will also consider any Section 50.59 revisions, as they may apply to the three design certification rules. However, any backfitting implications for Section VIII.B.5 of the design certification rules will be covered in the Section 50.59 rulemaking.

The process for generic Tier 2 changes (including changes to Tier 2* and Tier 2* with a time of expiration) tracks the process for generic Tier 1 changes. As set forth in paragraph B.1, generic Tier 2 changes are accomplished by rulemaking amending the generic DCD, and are governed by the standards in 10 CFR 52.63(a)(1). This provision provides that the Commission may not modify, change, rescind or impose new requirements by rulemaking except where necessary either to bring the certification into compliance with the Commission's regulations applicable and in effect at the time of approval of the design certification or to assure adequate protection of the public health and safety or common defense and security. If a generic change is made to Tier 2* information, then the category and expiration, if necessary, of the new information would also be determined in the rulemaking and the appropriate change process for that new information would apply.

Departures from Tier 2 may occur in five ways: (1) the Commission may order a plant-specific departure, as set forth in paragraph B.3; (2) an applicant or licensee may request an exemption from a Tier 2 requirement as set forth in paragraph B.4; (3) a licensee may make a departure without prior NRC approval in accordance with paragraph B.5 [the ''50.59-like'' process]; (4) the licensee may request NRC approval for proposed departures which do not meet the requirements in paragraph B.5 as provided in paragraph B.5.d; and (5) the licensee may request NRC approval for a departure from Tier 2* information under paragraph B.6.

Similar to Commission-ordered Tier 1 departures and generic Tier 2 changes, Commission-ordered Tier 2 departures cannot be imposed except where necessary either to bring the certification into compliance with the Commission's regulations applicable and in effect at the time of approval of the design certification or to ensure adequate protection of the public health and safety or common defense and security, as set forth in paragraph B.3. However, the special circumstances for the Commission-ordered Tier 2 departures do not have to outweigh any decrease in safety that may result from the reduction in standardization caused by the plant-specific order, as required by 10 CFR 52.63(a)(3). The Commission determined that it was not necessary to impose an additional limitation similar to that imposed on Tier 1 departures by 10 CFR 52.63(a)(3) and (b)(1). This type of additional limitation for standardization would unnecessarily restrict the flexibility of applicants and licensees with respect to Tier 2, which by its nature is not as safety significant as Tier 1.

An applicant or licensee may request an exemption from Tier 2 information as set forth in paragraph B.4. The applicant or licensee must demonstrate that the exemption complies with one of the special circumstances in 10 CFR 50.12(a). In addition, the Commission will not grant requests for exemptions that may result in a significant decrease in the level of safety otherwise provided by the design. However, the special circumstances for the exemption do not have to outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption. If the exemption is requested by an applicant for a license, the exemption is subject to litigation in the same manner as other issues in the license hearing, consistent with 10 CFR 52.63(b)(1). If the exemption is requested by a licensee, then the exemption is subject to litigation in the same manner as a license amendment.

Paragraph B.5 allows an applicant or licensee to depart from Tier 2 information, without prior NRC approval, if the proposed departure does not involve a change to or departure from Tier 1 or Tier 2* information, technical specifications, or involves an unreviewed safety question (USQ) as defined in B.5.b and B.5.c of this paragraph. The technical specifications referred to in B.5.a and B.5.b of this paragraph are the technical specifications in Section 16.1 of the generic DCD, including bases, for departures made prior to issuance of the COL. After issuance of the COL, the plant-specific technical specifications are controlling under paragraph B.5. The bases for the plant-specific technical specifications will be controlled by the bases control procedures for the plant-specific technical specifications (analogous to the bases control provision in the Improved Standard Technical Specifications). The definition of a USQ in paragraph B.5.b is similar to the definition in 10 CFR 50.59 and it applies to all information in Tier 2 except for the information that resolves the severe accident issues. The process for evaluating proposed tests or experiments not described in Tier 2 will be incorporated into the change process for the portion of the design that is outside the scope of this design certification. Although paragraph B.5 does not specifically state, the Commission has determined that departures must also comply with all applicable regulations unless an exemption or other relief is obtained.

The Commission believes that it is important to preserve and maintain the resolution of severe accident issues just like all other safety issues that were resolved during the design certification review (refer to SRM on SECY–90–377). However, because of the increased uncertainty in severe accident issue resolutions, the Commission has adopted separate criteria in B.5.c for determining whether a departure from information that resolves severe accident issues constitutes a USQ. For purposes of applying the special criteria in B.5.c, severe accident resolutions are limited to design features when the intended function of the design feature is relied upon to resolve postulated accidents where the reactor core has melted and exited the reactor vessel and the containment is being challenged (severe accidents). These design features are identified in Section 1.9.5 of the DCD, with other issues, and are described in other sections of the DCD. Therefore, the location of design information in the DCD is not important to the application of this special procedure for severe accident issues. However, the special procedure in B.5.c does not apply to design features that resolve so-called beyond design basis accidents or other low probability events. The important aspect of this special procedure is that it is limited solely to severe accident design features, as defined above. Some design features may have intended functions to meet ''design basis'' requirements and to resolve ''severe accidents.'' If these

design features are reviewed under paragraph VIII.B.5, then the appropriate criteria from either B.5.b or B.5.c are selected depending upon the function being changed.

An applicant or licensee that plans to depart from Tier 2 information, under VIII.B.5, must prepare a safety evaluation which provides the bases for the determination that the proposed change does not involve an unreviewed safety question, a change to Tier 1 or Tier 2* information, or a change to the technical specifications, as explained above. In order to achieve the Commission's goals for design certification, the evaluation needs to consider all of the matters that were resolved in the DCD, such as generic issue resolutions that are relevant to the proposed departure. The benefits of the early resolution of safety issues would be lost if departures from the DCD were made that violated these resolutions without appropriate review. The evaluation of the relevant matters needs to consider the proposed departure over the full range of power operation from startup to shutdown, as it relates to anticipated operational occurrences, transients, design basis accidents, and severe accidents. The evaluation must also include a review of all relevant secondary references from the DCD because Tier 2 information intended to be treated as requirements is contained in the secondary references. The evaluation should consider Tables 14.3–1 through 14.3–8 and 19.59–29 of the generic DCD to ensure that the proposed change does not impact Tier 1. These tables contain various cross-references from the safety analyses and probabilistic risk assessment in Tier 2 to the important parameters that were included in Tier 1. Although many issues and analyses could have been cross-referenced, the listings in these tables were developed only for key analyses for the AP600 design. Westinghouse provided more detailed cross-references for important analysis assumptions that are included in Tier 1 in its revised response to RAI 640.60 (DCP/NRC 1440—September 15, 1998).

If a proposed departure from Tier 2 involves a change to or departure from Tier 1 or Tier 2* information, technical specifications, or otherwise constitutes a USQ, then the applicant or licensee must obtain NRC approval through the appropriate process set forth in this appendix before implementing the proposed departure. The NRC does not endorse NSAC–125, ''Guidelines for 10 CFR 50.59 Safety Evaluations,'' for performing safety evaluations required by VIII.B.5 of this appendix. However, the NRC will work with industry, if it is desired, to develop an appropriate guidance document for processing proposed changes under VIII.B of this appendix.

A party to an adjudicatory proceeding (e.g., for issuance of a combined license) who believes that an applicant or licensee has not complied with VIII.B.5 when departing from Tier 2 information, may petition to admit such a contention into the proceeding under B.5.f. This provision was included because an incorrect departure from the requirements of this appendix essentially places the departure outside of the scope of the Commission's safety finding in the design certification rulemaking. Therefore, it follows that properly-founded contentions alleging such incorrectly-implemented departures cannot be considered ''resolved'' by this rulemaking. As set forth in B.5.f, the petition must comply with the requirements of § 2.714(b)(2) and show that the departure does not comply with paragraph B.5. Any other party may file a response to the petition. If on the basis of the petition and any responses, the presiding officer in the proceeding determines that the required showing has been made, the matter shall be certified to the Commission for its final determination. In the absence of a proceeding, petitions alleging non-conformance with paragraph B.5 requirements applicable to Tier 2 departures will be treated as petitions for enforcement action under 10 CFR 2.206.

Paragraph B.6 provides a process for departing from Tier 2* information. The creation of and restrictions on changing Tier 2* information resulted from the development of the Tier 1 information for the ABWR design. During this development process, the applicants for design certification requested that the amount of information in Tier 1 be minimized to provide additional flexibility for an applicant or licensee who references this appendix. Also, many codes, standards, and design processes, which were not specified in Tier 1, that are acceptable for meeting ITAAC were specified in Tier 2. The result of these actions is that certain significant information only exists in Tier 2 and the Commission does not want this significant information to be changed without prior NRC approval. This Tier 2* information is identified in the generic DCD with italicized text and brackets.

Although the Tier 2* designation was originally intended to last for the lifetime of the facility, like Tier 1 information, the NRC determined that some of the Tier 2* information could expire when the plant first achieves full (100%) power, after the finding required by 10 CFR 52.103(g), while other Tier 2* information must remain in effect throughout the life of the facility. The determining factors were the Tier 1 information that would govern these areas after first full power and the NRC's judgement on whether prior approval was required before implementation of the change due to the significance of the information. Therefore, certain Tier 2* information listed in paragraph B.6.c ceases to retain its Tier 2* designation after full power operation is first achieved following the Commission finding in 10 CFR 52.103(g). Thereafter, that information is deemed to be Tier 2 information that is subject to the departure requirements in paragraph B.5. By contrast, the Tier 2* information identified in paragraph B.6.b retains its Tier 2* designation throughout the duration of the license, including any period of renewal.

Certain preoperational tests in paragraph B.6.c are designated to be performed only for the first plant or first three plants that reference this appendix. Westinghouse's basis for performing these ''first-plant-only'' and ''first-three-plants-only'' preoperational tests is provided in Section 14.2.5 of the DCD. The NRC staff found Westinghouse's basis for performing these tests and its justification for only performing the tests on the first-plant or first-three-plants acceptable. The NRC staff's decision was based on the need to verify that plant-specific manufacturing and/or construction variations do not adversely impact the predicted performance of certain passive safety systems, while recognizing that these special tests will result in significant thermal transients being applied to critical plant components. The NRC staff believes that the range of manufacturing or construction variations that could adversely affect the relevant passive safety systems will be adequately disclosed after performing the designated tests on the first plant, or the first three plants, as applicable. The COL action item in Section 14.4.6 of the DCD states that subsequent plants shall either perform these preoperational tests or justify that the results of the first-plant-only or first-three-plant-only tests are applicable to the subsequent plant. The Tier 2* designation for these tests will expire after the first plant or first three plants complete these tests, as indicated in paragraph B.6.c.

If Tier 2* information is changed in a generic rulemaking, the designation of the new information (Tier 1, 2*, or 2) would also be determined in the rulemaking and the appropriate process

for future changes would apply. If a plant-specific departure is made from Tier 2* information, then the new designation would apply only to that plant. If an applicant who references this design certification makes a departure from Tier 2* information, the new information is subject to litigation in the same manner as other plant-specific issues in the licensing hearing. If a licensee makes a departure, it will be treated as a license amendment under 10 CFR 50.90 and the finality is in accordance with paragraph VI.B.5 of this appendix. Any requests for departures from Tier 2* information that affect Tier 1 must also comply with the requirements in VIII.A of this appendix.

Operational Requirements

The change process for technical specifications and other operational requirements in the DCD is set forth in paragraph VIII.C. This change process has elements similar to the Tier 1 and Tier 2 change process in paragraphs VIII.A and VIII.B, but with significantly different change standards. Because of the different finality status for technical specifications and other operational requirements (refer to III.F of this SOC), the Commission decided to designate a special category of information, consisting of the technical specifications and other operational requirements, with its own change process in paragraph VIII.C. The key to using the change processes in Section VIII is to determine if the proposed change or departure requires a change to a design feature described in the generic DCD. If a design change is required, then the appropriate change process in paragraph VIII.A or VIII.B applies. However, if a proposed change to the technical specifications or other operational requirements does not require a change to a design feature in the generic DCD, then paragraph VIII.C applies. The language in paragraph VIII.C also distinguishes between generic (Section 16.1 of DCD) and plant-specific technical specifications to account for the different treatment and finality accorded technical specifications before and after a license is issued.

The process in C.1 for making generic changes to the generic technical specifications in Section 16.1 of the DCD or other operational requirements in the generic DCD is accomplished by rulemaking and governed by the backfit standards in 10 CFR 50.109. The determination of whether the generic technical specifications and other operational requirements were completely reviewed and approved in the design certification rulemaking is based upon the extent to which an NRC safety conclusion in the FSER is being modified or changed. If it cannot be determined that the technical specification or operational requirement was comprehensively reviewed and finalized in the design certification rulemaking, then there is no backfit restriction under 10 CFR 50.109 because no prior position was taken on this safety matter. Some generic technical specifications contain bracketed values, which clearly indicate that the NRC staff's review was not complete. Generic changes made under VIII.C.1 are applicable to all applicants or licensees (refer to VIII.C.2), unless the change is irrelevant because of a plant-specific departure.

Plant-specific departures may occur by either a Commission order under VIII.C.3 or an applicant's exemption request under VIII.C.4. The basis for determining if the technical specification or operational requirement was completely reviewed and approved for these processes is the same as for VIII.C.1 above. If the technical specification or operational requirement was comprehensively reviewed and finalized in the design certification rulemaking, then the Commission must demonstrate that special circumstances are present before ordering a plant-specific departure. If not, there is no restriction on plant-specific changes to the technical specifications or operational requirements, prior to issuance of a license, provided a design change is not required. Although the generic technical specifications were reviewed by the NRC staff to facilitate the design certification review, the Commission intends to consider the lessons learned from subsequent operating experience during its licensing review of the plant-specific technical specifications. The process for petitioning to intervene on a technical specification or operational requirement is similar to other issues in a licensing hearing, except that the petitioner must also demonstrate why special circumstances are present (VIII.C.5).

Finally, the generic technical specifications will have no further effect on the plant-specific technical specifications after the issuance of a license that references this appendix. The bases for the generic technical specifications will be controlled by the change process in Section VIII.C of this appendix. After a license is issued, the bases will be controlled by the bases change provision set forth in the administrative controls section of the plant-specific technical specifications.

I. Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)

The purpose of Section IX of this appendix is to set forth how the ITAAC in Tier 1 of this design certification rule are to be treated in a license proceeding. Paragraph A restates the responsibilities of an applicant or licensee for performing and successfully completing ITAAC, and notifying the NRC of such completion. Paragraph A.1 makes it clear that an applicant may proceed at its own risk with design and procurement activities subject to ITAAC, and that a licensee may proceed at its own risk with design, procurement, construction, and preoperational testing activities subject to an ITAAC, even though the NRC may not have found that any particular ITAAC has been successfully completed. Paragraph A.2 requires the licensee to notify the NRC that the required inspections, tests, and analyses in the ITAAC have been completed and that the acceptance criteria have been met.

Paragraphs B.1 and B.2 essentially reiterate the NRC's responsibilities with respect to ITAAC as set forth in 10 CFR 52.99 and 52.103(g). Finally, paragraph B.3 states that ITAAC do not, by virtue of their inclusion in the DCD, constitute regulatory requirements after the licensee has received authorization to load fuel or for renewal of the license. However, subsequent modifications must comply with the design descriptions in the DCD unless the applicable requirements in 10 CFR 52.97 and Section VIII of this appendix have been complied with. As discussed in III.D of this SOC, the Commission will defer a determination of the applicability of ITAAC and their effect in terms of issue resolution in 10 CFR Part 50 licensing proceedings to such time that a Part 50 applicant decides to reference this appendix.

J. Records and Reporting

The purpose of Section X of this appendix is to set forth the requirements for maintaining records of changes to and departures from the generic DCD, which are to be reflected in the plant-specific DCD. Section X also sets forth the requirements for submitting reports (including updates to the plant-specific DCD) to the NRC. This section of the appendix is similar to the requirements for records and reports in 10 CFR Part 50, except for minor differences in information collection and reporting requirements, as discussed in V of this SOC. Paragraph X.A.1 of this appendix requires that a generic DCD and the proprietary and safeguards information

referenced in the generic DCD be maintained by the applicant for this rule. The generic DCD was developed, in part, to meet the requirements for incorporation by reference, including availability requirements. Therefore, the proprietary and safeguards information could not be included in the generic DCD because it is not publicly available. However, the proprietary and safeguards information was reviewed by the NRC and, as stated in paragraph VI.B.2 of this appendix, the Commission considers the information to be resolved within the meaning of 10 CFR 52.63(a)(4). Because this information is not in the generic DCD, the proprietary and safeguards information, or its equivalent, is required to be provided by an applicant for a license. Therefore, to ensure that this information will be available, a requirement for the design certification applicant to maintain the proprietary and safeguards information was added to paragraph X.A.1 of this appendix. The acceptable version of the proprietary and safeguards information is identified (referenced) in the version of the DCD that is incorporated into this rule. The generic DCD and the acceptable version of the proprietary and safeguards information must be maintained for the period of time that this appendix may be referenced.

Paragraphs A.2 and A.3 place record-keeping requirements on the applicant or licensee that references this design certification to maintain its plant-specific DCD to accurately reflect both generic changes to the generic DCD and plant-specific departures made pursuant to Section VIII of this appendix. The term ''plant-specific'' was added to paragraph A.2 and other Sections of this appendix to distinguish between the generic DCD that is incorporated by reference into this appendix, and the plant-specific DCD that the applicant is required to submit under IV.A of this appendix. The requirement to maintain the generic changes to the generic DCD is explicitly stated to ensure that these changes are not only reflected in the generic DCD, which will be maintained by the applicant for design certification, but that the changes are also reflected in the plant-specific DCD. Therefore, records of generic changes to the DCD will be required to be maintained by both entities to ensure that both entities have up-to-date DCDs.

Section X.A of this appendix does not place record-keeping requirements on site-specific information that is outside the scope of this rule. As discussed in III.D of this SOC, the final safety analysis report required by 10 CFR 52.79 will contain the plant-specific DCD and the site-specific information for a facility that references this rule. The phrase ''site-specific portion of the final safety analysis report'' in paragraph X.B.3.d of this appendix refers to the information that is contained in the final safety analysis report for a facility (required by 10 CFR 52.79) but is not part of the plant-specific DCD (required by IV.A of this appendix). Therefore, this rule does not require that duplicate documentation be maintained by an applicant or licensee that references this rule, because the plant-specific DCD is part of the final safety analysis report for the facility.

Paragraphs B.1 and B.2 establish reporting requirements for applicants or licensees that reference this rule that are similar to the reporting requirements in 10 CFR Part 50. For currently operating plants, a licensee is required to maintain records of the basis for any design changes to the facility made under 10 CFR 50.59. Section 50.59(b)(2) requires a licensee to provide a summary report of these changes to the NRC annually, or along with updates to the facility final safety analysis report under 10 CFR 50.71(e). Section 50.71(e)(4) requires that these updates be submitted annually, or 6 months after each refueling outage if the interval between successive updates does not exceed 24 months.

The reporting requirements in paragraph B.3 vary according to four different time periods during a facilities' lifetime. Paragraph B.3.a requires that if an applicant that references this rule decides to make departures from the generic DCD, then the departures and any updates to the plant-specific DCD must be submitted with the initial application for a license. Under B.3.b, the applicant may submit any subsequent reports and updates along with its amendments to the application provided that the submittals are made at least once per year. Because amendments to an application are typically made more frequently than once a year, this should not be an excessive burden on the applicant. Paragraph B.3.c requires that summary reports be submitted quarterly during the period of facility construction. This increase in frequency of summary reports of departures from the plant-specific DCD is in response to the Commission's guidance on reporting frequency in its SRM on SECY–90–377, dated February 15, 1991.

Quarterly reporting of design changes during the period of construction is necessary to closely monitor the status and progress of the construction of the plant. To make its finding under 10 CFR 52.99, the NRC must monitor the design changes made in accordance with Section VIII of this appendix. The ITAAC verify that the as-built facility conforms with the approved design and emphasizes design reconciliation and design verification. Quarterly reporting of design changes is particularly important in times where the number of design changes could be significant, such as during the procurement of components and equipment, detailed design of the plant at the start of construction, and during preoperational testing. The frequency of updates to the plant-specific DCD is not increased during facility construction. After the facility begins operation, the frequency of reporting reverts to the requirement in X.B.3.d, which is consistent with the requirement for plants licensed under 10 CFR Part 50.

IV. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended (NEPA), and the Commission's regulations in 10 CFR Part 51, Subpart A, that this proposed design certification rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement (EIS) is not required. The basis for this determination, as documented in the environmental assessment, is that this amendment to 10 CFR Part 52 would not authorize the siting, construction, or operation of a facility using the AP600 design; it would only codify the AP600 design in a rule. The NRC will evaluate the environmental impacts and issue an EIS as appropriate in accordance with NEPA as part of the application(s) for the construction and operation of a facility.

In addition, as part of the environmental assessment for the AP600 design, the NRC reviewed Westinghouse's evaluation of various design alternatives to prevent and mitigate severe accidents in Appendix 1B of the AP600 Standard Safety Analysis Report (SSAR). The Commission finds that Westinghouse's evaluation provides a reasonable assurance that certifying the AP600 design will not exclude severe accident mitigation design alternatives for a future facility that would prove cost beneficial had they been considered as part of the original design certification application. These issues are considered resolved for the AP600 design.

The environmental assessment (EA), upon which the Commission's finding of no significant impact is based, and AP600 SSAR are available for examination and copying at the NRC

Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the EA are also available from Jerry N. Wilson, Mailstop O–12 G15, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

The public reporting burden for this information collection is estimated to average 8 person-hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The NRC is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0151), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by June 21, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VI. Regulatory Analysis

The NRC has not prepared a regulatory analysis for this proposed rule. The NRC prepares regulatory analyses for rulemakings that establish generic regulatory requirements applicable to all licensees. Design certifications are not generic rulemakings in the sense that design certifications do not establish standards or requirements with which all licensees must comply. Rather, design certifications are Commission approvals of specific nuclear power plant designs by rulemaking. Furthermore, design certification rulemakings are initiated by an applicant for a design certification, rather than the NRC. Preparation of a regulatory analysis in this circumstance would not be useful because the design to be certified is proposed by the applicant rather than the NRC. For these reasons, the Commission concludes that preparation of a regulatory analysis is neither required nor appropriate.

VII. Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rulemaking will not have a significant economic impact upon a substantial number of small entities. This proposed rule provides for certification of a nuclear power plant design. Neither the design certification applicant, nor prospective nuclear power plant licensees who reference this design certification rule, fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Thus, this rule does not fall within the purview of the act.

VIII. Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule because this amendment does not impose new or changed requirements on existing 10 CFR Part 50 licensees. Therefore, a backfit analysis was not prepared for this rule.

IX. Consensus Standards

The National Technology and Transfer Act of 1995 (Act), Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. This proposed rule provides for certification of a nuclear power plant design. Design certifications are not generic rulemakings in the sense that design certifications do not establish standards or requirements with which all licensees must comply. Rather, design certifications are Commission approvals of specific nuclear power plant designs by rulemaking. Furthermore, design certification rulemakings are initiated by an applicant for a design certification, rather than the NRC. For these reasons, the Commission concludes that the Act does not apply to this proposed rule.

List of Subjects in 10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and record keeping requirements, Standard design, Standard design certification.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendment to 10 CFR Part 52.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

1. The authority citation for 10 CFR Part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246, 1246 as amended (42 U.S.C. 5841, 5842, 5846).

2. In § 52.8, paragraph (b) is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.35, 52.45, 52.47, 52.51, 52.57, 52.63, 52.75, 52.77, 52.78, 52.79, 52.89, 52.91, 52.99, and appendices A, B, and C.

3. A new Appendix C to 10 CFR Part 52 is added to read as follows:

Appendix C To Part 52—Design Certification Rule for the AP600 Design

I. Introduction

Appendix C constitutes the standard design certification for the AP600 [1] design, in accordance with 10 CFR Part 52, Subpart B. The applicant for certification of the AP600 design is Westinghouse Electric Company LLC.

II. Definitions

A. *Generic design control document* (generic DCD) means the document containing the Tier 1 and Tier 2 information and generic technical specifications that is incorporated by reference into this appendix.

B. *Generic technical specifications* means the information, required by 10 CFR 50.36 and 50.36a, for the portion of the plant that is within the scope of this appendix.

C. *Plant-specific DCD* means the document, maintained by an applicant or licensee who references this appendix, consisting of the information in the generic DCD, as modified and supplemented by the plant-specific departures and exemptions made under Section VIII of this appendix.

D. *Tier 1* means the portion of the design-related information contained in the generic DCD that is approved and certified by this appendix (hereinafter Tier 1 information). The design descriptions, interface requirements, and site parameters are derived from Tier 2 information. Tier 1 information includes:

1. Definitions and general provisions;
2. Design descriptions;
3. Inspections, tests, analyses, and acceptance criteria (ITAAC);
4. Significant site parameters; and
5. Significant interface requirements.

E. *Tier 2* means the portion of the design-related information contained in the generic DCD that is approved but not certified by this appendix (hereinafter Tier 2 information). Compliance with Tier 2 is required, but generic changes to and plant-specific departures from Tier 2 are governed by Section VIII of this appendix. Compliance with Tier 2 provides a sufficient, but not the only acceptable, method for complying with Tier 1. Compliance methods differing from Tier 2 must satisfy the change process in Section VIII of this appendix. Regardless of these differences, an applicant or licensee must meet the requirement in Section III.B to reference Tier 2 when referencing Tier 1. Tier 2 information includes:

1. Information required by 10 CFR 52.47, with the exception of generic technical specifications and conceptual design information;
2. Information required for a final safety analysis report under 10 CFR 50.34;
3. Supporting information on the inspections, tests, and analyses that will be performed to demonstrate that the acceptance criteria in the ITAAC have been met; and
4. Combined license (COL) action items (combined license information), which identify certain matters that shall be addressed in the site-specific portion of the final safety analysis report (FSAR) by an applicant who references this appendix. These items constitute information requirements but are not the only acceptable set of information in the FSAR. An applicant may depart from or omit these items, provided that the departure or omission is identified and justified in the FSAR. After issuance of a construction permit or COL, these items are not requirements for the licensee unless such items are restated in the FSAR.
5. The investment protection short-term availability controls in Section 16.3 of the DCD.

F. *Tier 2** means the portion of the Tier 2 information, designated as such in the generic DCD, which is subject to the change process in VIII.B.6 of this appendix. This designation expires for some Tier 2* information under VIII.B.6.

G. All other terms in this appendix have the meaning set out in 10 CFR 50.2, 10 CFR 52.3, or Section 11 of the Atomic Energy Act of 1954, as amended, as applicable.

III. Scope and Contents

A. Tier 1, Tier 2 (including the investment protection short-term availability controls in Section 16.3), and the generic technical specifications in the AP600 DCD, Revision 2 (3/99), are approved for incorporation by reference by the Director of the Office of the Federal Register on [Insert date of approval] in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the generic DCD may be obtained from Mr. Brian A. McIntyre, Manager, Advanced Plant Safety and Licensing, Westinghouse Electric Company, P.O. Box 355, Pittsburgh, PA 15230–0355. A copy is also available for examination and copying at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555–0001.

B. An applicant or licensee referencing this appendix, in accordance with Section IV of this appendix, shall incorporate by reference and comply with the requirements of this appendix, including Tier 1, Tier 2 (including the investment protection short-term availability controls in Section 16.3), and the generic technical specifications except as otherwise provided in this appendix. Conceptual design information in the generic DCD and the evaluation of severe accident mitigation design alternatives in Appendix 1B of the generic DCD are not part of this appendix.

C. If there is a conflict between Tier 1 and Tier 2 of the DCD, then Tier 1 controls.

D. If there is a conflict between the generic DCD and either the application for design certification of the AP600 design or NUREG–1512, ''Final Safety Evaluation Report Related to Certification of the AP600 Standard Design,'' (FSER), then the generic DCD controls.

E. Design activities for structures, systems, and components that are wholly outside the scope of this appendix may be performed using site-specific design parameters, provided the design activities do not affect the DCD or conflict with the interface requirements.

IV. Additional Requirements and Restrictions

A. An applicant for a license that wishes to reference this appendix shall, in addition to complying with the requirements of 10 CFR 52.77, 52.78, and 52.79, comply with the following requirements:

1. Incorporate by reference, as part of its application, this appendix.
2. Include, as part of its application:

a. A plant-specific DCD containing the same information and utilizing the same organization and numbering as the AP600 DCD, as modified and supplemented by the applicant's exemptions and departures;

b. The reports on departures from and updates to the plant-specific DCD required by X.B of this appendix;

c. Plant-specific technical specifications, consisting of the generic and site-specific technical specifications, that are required by 10 CFR 50.36 and 50.36a;

d. Information demonstrating compliance with the site parameters and interface requirements;

e. Information that addresses the COL action items; and

f. Information required by 10 CFR 52.47(a) that is not within the scope of this appendix.

3. Physically include, in the plant-specific DCD, the proprietary and safeguards information referenced in the AP600 DCD.

B. The Commission reserves the right to determine in what manner this appendix may be referenced by an applicant for a construction permit or operating license under Part 50.

V. Applicable Regulations

A. Except as indicated in paragraph B of this section, the regulations that apply to the AP600 design are in 10 CFR Parts 20, 50, 73, and 100, codified as of [insert date final rule signed], that are applicable and technically relevant, as described in the FSER (NUREG–1512).

B. The AP600 design is exempt from portions of the following regulations:

1. Paragraph (a)(1) of 10 CFR 50.34—whole body dose criterion;
2. Paragraph (f)(2)(iv) of 10 CFR 50.34—Plant Safety Parameter Display Console;
3. Paragraphs (f)(2)(vii), (viii), (xxvi), and (xxviii) of 10 CFR 50.34—Accident Source Term in TID 14844;
4. Paragraph (c)(1) of 10 CFR 50.62—Auxiliary (or emergency) feedwater system;
5. Appendix A to 10 CFR Part 50, GDC 17—Offsite Power Sources; and
6. Appendix A to 10 CFR Part 50, GDC 19—whole body dose criterion.

VI. Issue Resolution

A. The Commission has determined that the structures, systems, components, and design features of the AP600 design comply with the provisions of the Atomic Energy Act of 1954, as amended, and the applicable regulations identified in Section V of this appendix; and therefore, provide adequate protection to the health and safety of the public. A conclusion that a matter is resolved includes the finding that additional or alternative structures, systems, components, design features, design criteria, testing, analyses, acceptance criteria, or justifications are not necessary for the AP600 design.

[1] AP600 is a trademark of Westinghouse Electric Company LLC

B. The Commission considers the following matters resolved within the meaning of 10 CFR 52.63(a)(4) in subsequent proceedings for issuance of a combined license, amendment of a combined license, or renewal of a combined license, proceedings held pursuant to 10 CFR 52.103, and enforcement proceedings involving plants referencing this appendix:

1. All nuclear safety issues, except for the generic technical specifications and other operational requirements, associated with the information in the FSER, Tier 1, Tier 2 (including referenced information, which the context indicates is intended as requirements, and the investment protection short-term availability controls in Section 16.3), and the rulemaking record for certification of the AP600 design;

2. All nuclear safety and safeguards issues associated with the information in proprietary and safeguards documents, referenced and in context, are intended as requirements in the generic DCD for the AP600 design;

3. All generic changes to the DCD pursuant to and in compliance with the change processes in Sections VIII.A.1 and VIII.B.1 of this appendix;

4. All exemptions from the DCD pursuant to and in compliance with the change processes in Sections VIII.A.4 and VIII.B.4 of this appendix, but only for that proceeding;

5. All departures from the DCD that are approved by license amendment, but only for that proceeding;

6. Except as provided in VIII.B.5.f of this appendix, all departures from Tier 2 pursuant to and in compliance with the change processes in VIII.B.5 of this appendix that do not require prior NRC approval;

7. All environmental issues concerning severe accident mitigation design alternatives (SAMDAs) associated with the information in the NRC's environmental assessment for the AP600 design and Appendix 1B of the generic DCD, for plants referencing this appendix whose site parameters are within those specified in the SAMDA evaluation.

C. The Commission does not consider operational requirements for an applicant or licensee who references this appendix to be matters resolved within the meaning of 10 CFR 52.63(a)(4). The Commission reserves the right to require operational requirements for an applicant or licensee who references this appendix by rule, regulation, order, or license condition.

D. Except in accordance with the change processes in Section VIII of this appendix, the Commission may not require an applicant or licensee who references this appendix to:

1. Modify structures, systems, components, or design features as described in the generic DCD;

2. Provide additional or alternative structures, systems, components, or design features not discussed in the generic DCD; or

3. Provide additional or alternative design criteria, testing, analyses, acceptance criteria, or justification for structures, systems, components, or design features discussed in the generic DCD.

E.1. Persons who wish to review proprietary and safeguards information or other secondary references in the AP600 DCD, in order to request or participate in the hearing required by 10 CFR 52.85 or the hearing provided under 10 CFR 52.103, or to request or participate in any other hearing relating to this appendix in which interested persons have adjudicatory hearing rights, shall first request access to such information from Westinghouse. The request must state with particularity:

a. The nature of the proprietary or other information sought;

b. The reason why the information currently available to the public in the NRC's public document room is insufficient;

c. The relevance of the requested information to the hearing issue(s) which the person proposes to raise; and

d. A showing that the requesting person has the capability to understand and utilize the requested information.

2. If a person claims that the information is necessary to prepare a request for hearing, the request must be filed no later than 15 days after publication in the **Federal Register** of the notice required either by 10 CFR 52.85 or 10 CFR 52.103. If Westinghouse declines to provide the information sought, Westinghouse shall send a written response within ten (10) days of receiving the request to the requesting person setting forth with particularity the reasons for its refusal. The person may then request the Commission (or presiding officer, if a proceeding has been established) to order disclosure. The person shall include copies of the original request (and any subsequent clarifying information provided by the requesting party to the applicant) and the applicant's response. The Commission and presiding officer shall base their decisions solely on the person's original request (including any clarifying information provided by the requesting person to Westinghouse), and Westinghouse's response. The Commission and presiding officer may order Westinghouse to provide access to some or all of the requested information, subject to an appropriate non-disclosure agreement.

VII. Duration of This Appendix

This appendix may be referenced for a period of 15 years from [Insert date 30 days after publication of the final rule in the **Federal Register**], except as provided for in 10 CFR 52.55(b) and 52.57(b). This appendix remains valid for an applicant or licensee who references this appendix until the application is withdrawn or the license expires, including any period of extended operation under a renewed license.

VIII. Processes for Changes and Departures

A. Tier 1 Information

1. Generic changes to Tier 1 information are governed by the requirements in 10 CFR 52.63(a)(1).

2. Generic changes to Tier 1 information are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraphs A.3 or A.4 of this section.

3. Departures from Tier 1 information that are required by the Commission through plant-specific orders are governed by the requirements in 10 CFR 52.63(a)(3).

4. Exemptions from Tier 1 information are governed by the requirements in 10 CFR 52.63(b)(1) and § 52.97(b). The Commission will deny a request for an exemption from Tier 1, if it finds that the design change will result in a significant decrease in the level of safety otherwise provided by the design.

B. Tier 2 Information

1. Generic changes to Tier 2 information are governed by the requirements in 10 CFR 52.63(a)(1).

2. Generic changes to Tier 2 information are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraphs B.3, B.4, B.5, or B.6 of this section.

3. The Commission may not require new requirements on Tier 2 information by plant-specific order while this appendix is in effect under §§ 52.55 or 52.61, unless:

a. A modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time this appendix was approved, as set forth in Section V of this appendix, or to assure adequate protection of the public health and safety or the common defense and security; and

b. Special circumstances as defined in 10 CFR 50.12(a) are present.

4. An applicant or licensee who references this appendix may request an exemption from Tier 2 information. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). The Commission will deny a request for an exemption from Tier 2, if it finds that the design change will result in a significant decrease in the level of safety otherwise provided by the design. The grant of an exemption to an applicant must be subject to litigation in the same manner as other issues material to the license hearing. The grant of an exemption to a licensee must be subject to an opportunity for a hearing in the same manner as license amendments.

5.a. An applicant or licensee who references this appendix may depart from Tier 2 information, without prior NRC approval, unless the proposed departure involves a change to or departure from Tier 1 information, Tier 2* information, or the technical specifications, or involves an unreviewed safety question as defined in paragraphs B.5.b and B.5.c of this section. When evaluating the proposed departure, an applicant or licensee shall consider all matters described in the plant-specific DCD.

b. A proposed departure from Tier 2, other than one affecting resolution of a severe accident issue identified in the plant-specific DCD, involves an unreviewed safety question if—

(1) The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the plant-specific DCD may be increased;

(2) A possibility for an accident or malfunction of a different type than any evaluated previously in the plant-specific DCD may be created; or

(3) The margin of safety as defined in the basis for any technical specification is reduced.

c. A proposed departure from Tier 2 affecting resolution of a severe accident issue identified in the plant-specific DCD, involves an unreviewed safety question if—

(1) There is a substantial increase in the probability of a severe accident such that a particular severe accident previously reviewed and determined to be not credible could become credible; or

(2) There is a substantial increase in the consequences to the public of a particular severe accident previously reviewed.

d. If a departure involves an unreviewed safety question as defined in paragraph B.5 of this section, it is governed by 10 CFR 50.90.

e. A departure from Tier 2 information that is made under paragraph B.5 of this section does not require an exemption from this appendix.

f. A party to an adjudicatory proceeding for either the issuance, amendment, or renewal of a license or for operation under 10 CFR 52.103(a), who believes that an applicant or licensee who references this appendix has not complied with VIII.B.5 of this appendix when departing from Tier 2 information, may petition to admit into the proceeding such a contention. In addition to compliance with the general requirements of 10 CFR 2.714(b)(2), the petition must demonstrate that the departure does not comply with VIII.B.5 of this appendix. Further, the petition must demonstrate that the change bears on an asserted noncompliance with an ITAAC acceptance criterion in the case of a 10 CFR 52.103 preoperational hearing, or that the change bears directly on the amendment request in the case of a hearing on a license amendment. Any other party may file a response. If, on the basis of the petition and any response, the presiding officer determines that a sufficient showing has been made, the presiding officer shall certify the matter directly to the Commission for determination of the admissibility of the contention. The Commission may admit such a contention if it determines the petition raises a genuine issue of fact regarding compliance with VIII.B.5 of this appendix.

6.a. An applicant who references this appendix may not depart from Tier 2* information, which is designated with italicized text or brackets and an asterisk in the generic DCD, without NRC approval. The departure will not be considered a resolved issue, within the meaning of Section VI of this appendix and 10 CFR 52.63(a)(4).

b. A licensee who references this appendix may not depart from the following Tier 2* matters without prior NRC approval. A request for a departure will be treated as a request for a license amendment under 10 CFR 50.90.

(1) Maximum fuel rod average burn-up.

(2) Fuel principal design requirements.

(3) Fuel criteria evaluation process.

(4) Fire areas.

(5) Human factors engineering.

c. A licensee who references this appendix may not, before the plant first achieves full power following the finding required by 10 CFR 52.103(g), depart from the following Tier 2* matters except in accordance with paragraph B.6.b of this section. After the plant first achieves full power, the following Tier 2* matters revert to Tier 2 status and are thereafter subject to the departure provisions in paragraph B.5 of this section.

(1) Nuclear Island structural dimensions.

(2) ASME Boiler & Pressure Vessel Code, Section III, and Code Case N–284.

(3) Design Summary of Critical Sections.

(4) ACI 318, ACI 349, and ANSI/AISC–690.

(5) Definition of critical locations and thicknesses.

(6) Seismic qualification methods and standards.

(7) Nuclear design of fuel and reactivity control system, except burn-up limit.

(8) Motor-operated and power-operated valves.

(9) Instrumentation & control system design processes, methods, and standards.

(10) PRHR natural circulation test (first plant only).

(11) ADS and CMT verification tests (first three plants only).

d. Departures from Tier 2* information that are made under paragraph B.6 of this section do not require an exemption from this appendix.

C. Operational requirements

1. Generic changes to generic technical specifications and other operational requirements that were completely reviewed and approved in the design certification rulemaking and do not require a change to a design feature in the generic DCD are governed by the requirements in 10 CFR 50.109. Generic changes that do require a change to a design feature in the generic DCD are governed by the requirements in paragraphs A or B of this section.

2. Generic changes to generic technical specifications and other operational requirements are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraph C.3 or C.4 of this section.

3. The Commission may require plant-specific departures on generic technical specifications and other operational requirements that were completely reviewed and approved, provided a change to a design feature in the generic DCD is not required and special circumstances as defined in 10 CFR 2.758(b) are present. The Commission may modify or supplement generic technical specifications and other operational requirements that were not completely reviewed and approved or require additional technical specifications and other operational requirements on a plant-specific basis, provided a change to a design feature in the generic DCD is not required.

4. An applicant who references this appendix may request an exemption from the generic technical specifications or other operational requirements. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). The grant of an exemption must be subject to litigation in the same manner as other issues material to the license hearing.

5. A party to an adjudicatory proceeding for either the issuance, amendment, or renewal of a license or for operation under 10 CFR 52.103(a), who believes that an operational requirement approved in the DCD or a technical specification derived from the generic technical specifications must be changed may petition to admit into the proceeding such a contention. Such petition must comply with the general requirements of 10 CFR 2.714(b)(2) and must demonstrate why special circumstances as defined in 10 CFR 2.758(b) are present, or for compliance with the Commission's regulations in effect at the time this appendix was approved, as set forth in Section V of this appendix. Any other party may file a response thereto. If, on the basis of the petition and any response, the presiding officer determines that a sufficient showing has been made, the presiding officer shall certify the matter directly to the Commission for determination of the admissibility of the contention. All other issues with respect to the plant-specific technical specifications or other operational requirements are subject to a hearing as part of the license proceeding.

6. After issuance of a license, the generic technical specifications have no further effect on the plant-specific technical specifications and changes to the plant-specific technical specifications will be treated as license amendments under 10 CFR 50.90.

IX. Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)

A.1 An applicant or licensee who references this appendix shall perform and demonstrate conformance with the ITAAC before fuel load. With respect to activities subject to an ITAAC, an applicant for a license may proceed at its own risk with design and procurement activities, and a licensee may proceed at its own risk with design, procurement, construction, and preoperational activities, even though the NRC may not have found that any particular ITAAC has been satisfied.

2. The licensee who references this appendix shall notify the NRC that the required inspections, tests, and analyses in the ITAAC have been successfully completed and that the corresponding acceptance criteria have been met.

3. In the event that an activity is subject to an ITAAC, and the applicant or licensee who references this appendix has not demonstrated that the ITAAC has been satisfied, the applicant or licensee may either take corrective actions to successfully complete that ITAAC, request an exemption from the ITAAC in accordance with Section VIII of this appendix and 10 CFR 52.97(b), or petition for rulemaking to amend this appendix by changing the requirements of the ITAAC, under 10 CFR 2.802 and 52.97(b). Such rulemaking changes to the ITAAC must meet the requirements of paragraph VIII.A.1 of this appendix.

B.1 The NRC shall ensure that the required inspections, tests, and analyses in the ITAAC are performed. The NRC shall verify that the inspections, tests, and analyses referenced by the licensee have been successfully completed and, based solely thereon, find the prescribed acceptance criteria have been met.

At appropriate intervals during construction, the NRC shall publish notices of the successful completion of ITAAC in the **Federal Register**.

2. In accordance with 10 CFR 52.99 and 52.103(g), the Commission shall find that the acceptance criteria in the ITAAC for the license are met before fuel load.

3. After the Commission has made the finding required by 10 CFR 52.103(g), the ITAAC do not, by virtue of their inclusion within the DCD, constitute regulatory requirements either for licensees or for renewal of the license; except for specific ITAAC, which are the subject of a Section 103(a) hearing, their expiration will occur upon final Commission action in such proceeding. However, subsequent modifications must comply with the Tier 1 and Tier 2 design descriptions in the plant-specific DCD unless the licensee has complied with the applicable requirements of 10 CFR 52.97 and Section VIII of this appendix.

X. Records and Reporting

A. Records

1. The applicant for this appendix shall maintain a copy of the generic DCD that includes all generic changes to Tier 1 and Tier 2. The applicant shall maintain the proprietary and safeguards information referenced in the generic DCD for the period that this appendix may be referenced, as specified in Section VII of this appendix.

2. An applicant or licensee who references this appendix shall maintain the plant-specific DCD to accurately reflect both generic changes to the generic DCD and plant-specific departures made pursuant to Section VIII of this appendix throughout the period of application and for the term of the license (including any period of renewal).

3. An applicant or licensee who references this appendix shall prepare and maintain written safety evaluations which provide the bases for the determinations required by Section VIII of this appendix. These evaluations must be retained throughout the period of application and for the term of the license (including any period of renewal).

B. Reporting

1. An applicant or licensee who references this appendix shall submit a report to the NRC containing a brief description of any departures from the plant-specific DCD, including a summary of the safety evaluation of each. This report must be filed in accordance with the filing requirements applicable to reports in 10 CFR 50.4.

2. An applicant or licensee who references this appendix shall submit updates to its plant-specific DCD, which reflect the generic changes to the generic DCD and the plant-specific departures made pursuant to Section VIII of this appendix. These updates shall be filed in accordance with the filing requirements applicable to final safety analysis report updates in 10 CFR 50.4 and 50.71(e).

3. The reports and updates required by paragraphs B.1 and B.2 of this section must be submitted as follows:

a. On the date that an application for a license referencing this appendix is submitted, the application shall include the report and any updates to the plant-specific DCD.

b. During the interval from the date of application to the date of issuance of a license, the report and any updates to the plant-specific DCD must be submitted annually and may be submitted along with amendments to the application.

c. During the interval from the date of issuance of a license to the date the Commission makes its findings under 10 CFR 52.103(g), the report must be submitted quarterly. Updates to the plant-specific DCD must be submitted annually.

d. After the Commission has made its finding under 10 CFR 52.103(g), reports and updates to the plant-specific DCD may be submitted annually or along with updates to the site-specific portion of the final safety analysis report for the facility at the intervals required by 10 CFR 50.71(e), or at shorter intervals as specified in the license.

Dated at Rockville, Maryland, this 13th day of May, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–12623 Filed 5–19–99; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Thursday
May 20, 1999

Part III

Department of Education

Office of Postsecondary Education; Federal TRIO Programs—TRIO Dissemination Partnership Program; Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.344]

Office of Postsecondary Education; Federal TRIO Programs—TRIO Dissemination Partnership Program; Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: The TRIO Dissemination Partnership Program provides grants to enable TRIO projects to work with other institutions and agencies that are serving low-income and first-generation college students but that do not have TRIO grants. The purpose of the grants is to replicate or adapt successful TRIO program components, practices, strategies, and activities at institutions and agencies that do not have a Federally-funded TRIO project. For fiscal year (FY) 1999, we encourage applicants to design projects that focus on the invitational priorities summarized in the Priorities section of this application notice.

Eligible Applicants: Institutions of higher education or other private and public institutions and organizations that are carrying out a Federal TRIO project prior to the date of enactment of the Higher Education Amendments of 1998 (October 7, 1998).

Applications Available: June 14, 1999.

Deadline for Transmittal of Applications: August 6, 1999.

Deadline for Intergovernmental Review: September 7, 1999.

Available Funds: $2,000,000.

Estimated Range of Awards: $130,000 to $200,000 for Year 1 of the project period.

Estimated Average Size of Awards: $160,000.

Maximum Award: The Secretary will reject, without consideration or evaluation, an application that proposes a budget exceeding $200,000 for the first budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10–15.

Project Period: Up to 36 months.

Note: The Department is not bound by any estimates in this notice.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than 75 pages, using the following standards:

(1) A ''page'' is 8.5″ x 11″, on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III. If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we will not review your application or consider your application for funding.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86.

Invitational Priorities

The Secretary is particularly interested in applications that meet one or more of the invitational priorities in the next five paragraphs. However, an application that meets one or more of the invitational priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority 1—Effective Use of Educational Technology

Projects designed to share effective strategies for using technology in a variety of ways, including innovative technology-based instructional programs; use of technology to provide better access to educational opportunities; and technology-based programs to equip disadvantaged students with the knowledge and skills to compete for jobs in the emerging world economy that require the use of new and sophisticated technologies.

Invitational Priority 2—Business and Community Partnerships and K–12 Collaborations

Projects to assist communities with large numbers of low-income, first generation college students develop effective business and community partnerships and K–12 collaborations.

Invitational Priority 3—Program Evaluation and Assessments of Student Outcomes

Projects to assist institutions and agencies in using or adapting successful strategies for operating performance-based programs.

Invitational Priority 4—Access, Retention, and College Completion

Projects to assist institutions and agencies that do not have TRIO grants in replicating or adapting effective access and retention strategies for low-income, first-generation and disabled students.

Invitational Priority 5— Increased Participation of Underrepresented Groups in Graduate Study

Projects designed to share successful TRIO strategies for increasing the access, retention, and completion rates of low-income and minority students in graduate study.

For Further Information or Applications: Frances Bergeron or Linda Byrd-Johnson, U.S. Department of Education, 400 Maryland Avenue, SW, the Portals Building, Room 600D, Washington, DC 20202–5249. Telephone (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to either contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting either of those persons. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Technical Assistance Workshops: The Department of Education will conduct four technical assistance workshops for the TRIO Dissemination Partnership Program. At these workshops, Department of Education staff will assist prospective applicants in developing proposals and will provide budget information regarding these programs. The Technical Assistance Workshops will be held as follows:

1. June 25, 1999, 8:30 a.m. to 2:00 p.m., U.S. Department of Education, 400 Maryland Avenue, SW, Departmental Auditorium (1st Floor Main Lobby), Room 1C100, Federal Office Building #6, Washington, D.C. 20202. Contacts: Frances Bergeron or Linda Byrd-Johnson at (202) 708–4804.

2. June 28, 1999, 8:30 a.m. to 2:00 p.m., Chicago State University, 9501 So. Martin Luther King Drive, Student Union Building, Conference Rooms A, B, and C, Chicago, IL. 60628–1598. Contact: Ms. Patricia George at (773) 995–3864.

3. June 30, 1999, 8:30 a.m. to 2:00 p.m., University of California, Los Angeles, 480 Charles Young Drive, College of Letters and Science, UCLA Faculty Center, California Room, Los Angeles, CA 90095. Contact: Mr. Masai Minters at (310) 206–1563.

4. June 30, 1999, 8:30 a.m. to 2:00 p.m., Atlanta Metropolitan College, 1630 Metropolitan Parkway, SW, Academic Building 500, Room A 210, Atlanta, GA. 30310. Contact: Mr. Bobby Olive at (404) 756–4058.

Assistance to Individuals With Disabilities at the Technical Assistance Workshops

The technical assistance workshop sites are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify either one of the contact persons listed in this notice at least two weeks before the scheduled workshop date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512–1530 or, toll free, at 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 1070a–18.

Dated: May 14, 1999.

David A. Longanecker,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 99–12684 Filed 5–19–99; 8:45 am]

BILLING CODE 4000–01–U

Thursday
May 20, 1999

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulations; Travel Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 94–753]

RIN 9000–AG27

Federal Acquisition Regulations; Travel Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to remove the limitation that costs incurred by contractor personnel for lodging, meals, and incidental expenses be considered reasonable and allowable only to the extent that they do not exceed the maximum per diem rates set forth in the Federal Travel Regulation (FTR), the Joint Travel Regulations (JTR), or the Standardized Regulations (SR).

DATES: Comments should be submitted on or before July 19, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Laurie Duarte, 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.94–753@gsa.gov.

Please cite FAR case 94–753 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAR case 94–753.

SUPPLEMENTARY INFORMATION:

A. Background

Section 24 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 420) previously required that travel costs incurred by contractor personnel be considered reasonable and allowable only to the extent that they did not exceed the maximum per diem rates for Federal employees set by subchapter I of 5 U.S.C. 57, the Administrator of General Services, or the President (or his designee). FAR 31.205–46, Travel costs, implemented Section 24 of the OFPP Act by limiting allowable contractor costs for lodging, meals, and incidental expenses to the maximum per diem rates set forth in the FTR, JTR, or SR. However, Section 2191 of the Federal Acquisition Streamlining Act (FASA) of 1994 (Pub. L. 103–355) repealed Section 24 of the OFPP Act.

A proposed FAR rule was published in the **Federal Register** at 59 FR 64542, December 14, 1994. That rule proposed revising FAR 31.205–46(a) to stipulate that the FTR, JTR, or SR rates should be used as a baseline, but allowed contractors to propose alternative maximum per diem rates, and contracting officers to approve the alternative rates if certain conditions were met. Public comments were received from 63 sources. Based on a review of those public comments, the FASA Cost Principles Team preliminarily decided to recommend withdrawal of the proposed rule and retention of the current cost principle language at FAR 31.205–46 without change.

The notice published in the **Federal Register** at 60 FR 27471, May 24, 1995, announced a public meeting, that was subsequently held on June 14, 1995. The purpose of this meeting was to permit the public to present its views concerning the recommendation to withdraw the proposed rule. At the public meeting, industry representatives expressed concern that contractors may be unable to obtain the discounted lodging rates afforded to Government personnel, that the current process was burdensome and costly to both contractors and the Government, and that the standard should be revised to one of reasonableness. Subsequent to the public meeting, the issue was discussed at length but no agreement was reached on publication of a final rule.

As a result of further analysis of this issue, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are now proposing a rule that differs significantly from the proposed rule that was published on December 14, 1994. This second proposed rule deletes in its entirety the per diem rate limitation at FAR 31.205–46(a)(2) through (6).

The councils are proposing this change for a number of reasons. First, GSA promulgates FTR per diem rates for the purpose of providing sufficient allowance for Government travelers while on official business for the Government. Section 24 of the OFPP Act applied the FTR rates to reimburse Government contractor employees travel costs. Since Section 2191 of FASA repealed Section 24 of the OFPP Act, it is no longer necessary to apply rates designed for Government employee travel to Government contractors. Generally, FTR rates appear to be lower than the actual corporate rates available to contractors.

Second, it is anticipated that removal of the per diem limitation will generate savings by reducing administrative costs for both contractors and the Government. The Government expects the administrative cost savings to lessen any increased costs resulting from this rule change. For example, removal of the per diem rate limitation will lead to a reduction of the Government's auditing and contract administration effort. Another example of the administrative cost savings is that contractors would no longer need to maintain two travel systems—their own and the FTR/JTR/SR systems. Also, contractors would no longer need to continuously monitor changes to the JTR, FTR, and SR, and adjust their accounting systems accordingly.

The third reason for removing the per diem rate limitation is to permit the Government to adopt an allowability standard that is more consistent with the commercial marketplace. Many contractors already have detailed travel reimbursement systems, rooted in commercially generated survey data, to manage their costs.

However, there is some concern within the Government about the potential for increased costs as a result of this proposed change. Therefore, to help estimate the potential costs and benefits to the Government, the councils invite respondents to provide the following information together with their comments. Note that public comments provided in response to this notice will be available in their entirety to any requester, including any requester under the Freedom of Information Act (5 U.S.C. 552). Therefore, we caution respondents not to provide proprietary or other business sensitive information. Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.

1. For industry respondents—

(a) Provide a description of how you will treat lodging, meals, and incidental expenses if the councils eliminate the FTR/JTR/SR limits (*i.e.,* how will you ensure the costs charged to the

Government are reasonable?) For example, does your policy address the classes of hotels or the average costs of lodging in a city, *etc.*? (Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.)

(b) Provide data on the percentage of total costs for lodging, meals, and incidental expenses that were unallowable in the most recent fiscal year. (Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.)

(c) That have both Government and commercial business, provide the percentage differential in the average cost per day for lodging, meals, and incidental expenses between the two types of business. If you had charged the commercial business average cost per day to the Government, by what percentage would the costs charged to the Government have changed. (Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.)

(d) Identify the types of savings that would result for your firm if the councils eliminate the FTR/JTR/SR limits. To what extent would the savings offset any increased costs to the Government? (Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.)

2. For Government respondents, identify the types and amounts of costs, savings, advantages or disadvantages to your agency if the councils eliminate the FTR/JTR/SR limits.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 94–753), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: May 17, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205–6 [Amended]

2. Section 31.205–6 is amended in paragraph (m)(2) by revising the reference ''(see 31.205–46(f))'' to read as ''(see 31.205–46(g))''.

31.205–46 [Amended]

3. Section 31.205–46 is amended in paragraph (a) by removing paragraphs (a)(2) through (a)(6) and by redesignating paragraphs (a)(1) as (a), (a)(7) as (b), and (b) through (f) as (c) through (g), respectively; in the newly designated (a) by removing the paragraph heading; and in the newly designated paragraph (f)(2) by revising ''paragraph (d)'' to read ''paragraph (e)'' both times it appears, and ''paragraph (e)(3)'' to read ''subparagraph (f)(3)''.

[FR Doc. 99–12739 Filed 5–19–99; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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S. 453/P.L. 106–27

To designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building''. (May 13, 1999; 113 Stat. 52)

S. 460/P.L. 106–28

To designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse''. (May 13, 1999; 113 Stat. 53)

Last List May 7, 1999

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