5–10–01 Thursday
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Federal Register

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: Tuesday, May 22, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Thursday, May 10, 2001

Presidential Documents

Title 3—

The President

Proclamation 7434 of May 7, 2001

Asian/Pacific American Heritage Month, 2001

By the President of the United States of America

A Proclamation

As we move into the 21st century, the United States continues to greatly benefit from the contributions of its diverse citizenry. Among those who have influenced our country, Asian/Pacific Americans merit special recognition. Their achievements have greatly enriched our quality of life and have helped to determine the course of our Nation's future.

Many immigrants of Asian heritage came to the United States in the nineteenth century to work in the agricultural and transportation industries. Laboring under very difficult conditions, they helped construct the western half of the first transcontinental railroad. Their hard work was invaluable in linking together the East and West coasts, thus vastly expanding economic growth and development across the country. Over time, other immigrants journeyed to America from East Asia, Southeast Asia, and the Asian Subcontinent. Today, Asian/Pacific Americans are one of the fastest growing segments of our population, having increased in number from fewer than 1.5 million in 1970 to approximately 10.5 million in 2000.

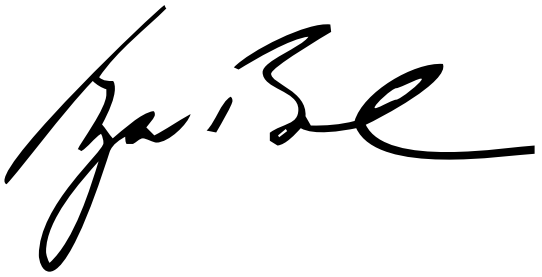
Asian/Pacific Americans bring to our society a rich cultural heritage representing many languages, ethnicities, and religious traditions. Whether in government, business, science, technology, or the arts, Asian/Pacific Americans have added immeasurably to the prosperity and vitality of our society. As family members, citizens, and involved members of the community, they reinforce the values and ideals that are essential to the continued well-being of our Nation.

Diversity represents one of our greatest strengths, and we must strive to ensure that all Americans have the opportunity to reach their full potential. By recognizing the accomplishments and contributions of Asian/Pacific Americans, our Nation celebrates the importance of inclusion in building a brighter future for all our citizens.

To honor the achievements of Asian/Pacific Americans, the Congress, by Public Law 102-450, has designated the month of May each year as ''Asian/Pacific American Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2001, as Asian/Pacific American Heritage Month. I call upon the people of the United States to learn more about the contributions and history of Asian/Pacific Americans and to celebrate the role they have played in our national story.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-fifth.



[FR Doc. 01–11913
Filed 5–9–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 66, No. 91
Thursday, May 10, 2001

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1309

Over-Order Price Regulation; Supply Management Refund Program; Correction

AGENCY: Northeast Dairy Compact Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (7 CFR Part 1309) published in the **Federal Register** of Wednesday, May 31, 2000, (65 FR 34580). The regulations related to establishing a Supply Management Refund Program for the regulated area pursuant to Article IV, section 9(f) of the Northeast Interstate Dairy Compact.

DATES: *Effective date:* June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections established the Northeast Dairy Compact Commission's Supply Management Refund Program effective July 1, 2000. Section 1309.4 provides the qualifications and methodology for payments to producers of the supply management fund 45 days after the close of the refund year on June 30.

Need for Correction

As published the final rule contains errors which may prove to be misleading and need to be clarified. Because of a clerical error, § 1309.4(a) at line 5 of the first column of page 34581 refers to ''production of the preceding calendar year'' when the Commission intended to refer to ''production of the preceding 12 month period.'' Also, and again due to a clerical error, § 1309.4(b) at line 21 of the first column of page 34581 refers to ''§ 1309.2(e)'' which was intended to read ''§ 1309.2(c).''

List of Subjects in 7 CFR Part 1309

Milk.

Accordingly, 7 CFR part 1309 is corrected by making the following correcting amendments:

PART 1309—SUPPLY MANAGEMENT REFUND PROGRAM

1. The authority citation for part 1309 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Revise § 1309.4 to read as follows:

§ 1309.4 Payment to producers of supply management refund.

(a) All producers who are qualified pursuant to § 1309.1 shall become eligible to receive payment of the supply management refund computed pursuant to § 1309.2 by submitting to the compact commission documentation that the producer milk production during the refund year is less than or the increase is not more than 1% of the milk production of the preceding 12 month period. Such documentation shall be filed with the commission not later than 45 days after the end of the refund year.

(b) The commission will make payment to all producers qualified pursuant to § 1309.1 and eligible pursuant to paragraph (a) of this section in the following manner:

(1) A per farm payment computed by dividing the amount subtracted pursuant to § 1309.2(b) by the total eligible producers; and

(2) The value determined by multiplying the supply management refund price computed pursuant to § 1309.2(c) by the producer's milk pounds, not to exceed $12,000.

Dated: May 1, 2001.

Daniel Smith,

Executive Director.

[FR Doc. 01–11792 Filed 5–9–01; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1044

RIN 1992–AA26

Office of Security and Emergency Operations; Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000

AGENCY: Department of Energy (DOE).

ACTION: Interim final rule; completion of regulatory review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), DOE temporarily delayed for 60 days (66 FR 8747, February 2, 2001) the effective date of the interim final rule entitled ''Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000'' published in the **Federal Register** on January 18, 2001 (66 FR 4639). DOE has now completed its review of that regulation, and does not intend to initiate any further rulemaking action to modify its provisions. However, based on a written comment received on the interim final rule, DOE may make minor, non-substantive changes to the rule. DOE will announce any such changes in the notice of final rulemaking that will be published in the **Federal Register**.

DATES: The effective date of the interim final rule amending 10 CFR part 1044 published at 66 FR 4639, January 18, 2001, and delayed at 66 FR 8747, February 2, 2001, is confirmed as April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Geralyn Praskievcz, Office of Security and Emergency Operations, (202) 586–4451, *geralyn.praskievcz@hq.doe.gov.*

Issued in Washington, DC on May 3, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–11809 Filed 5–9–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–22–AD; Amendment 39–12223; AD 2001–09–16]

RIN 2120–AA64

Airworthiness Directives; Eagle Aircraft Pty. Ltd. Model 150B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Eagle Aircraft Pty. Ltd. (Eagle) Model 150B airplanes. This AD requires you to inspect the rudder cables for fraying, broken strands, etc. (referred to as damage), and replace any damaged cables. This AD also requires you to replace the rudder cable pulleys with larger diameter pulleys to eliminate the possibility of further damage. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Australia. The actions specified by this AD are intended to detect and correct damaged rudder cables caused by chafing of the cable against the pulleys. Continued airplane operation with damaged cables could result in rudder cable system failure with possible loss of airplane control.

DATES: This AD becomes effective on June 29, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of June 29, 2001.

ADDRESSES: You may get the service information referenced in this AD from Eagle Aircraft Pty. Ltd., Lot 700 Cockburn Road, Henderson WA 6166 Australia; telephone: (08) 9410 1077; facsimile: (08) 9410 2430. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–22–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5232; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Civil Aviation Safety Authority (CASA), which is the airworthiness authority for Australia, notified FAA that an unsafe condition may exist on certain Eagle Model 150B airplanes. The CASA reports an occurrence where frayed rudder cables were found on an Eagle Model 150B airplane. Further investigation reveals that the diameter of the rudder cable pulleys is too small and cables rub against these pulleys.

What Are the Consequences If the Condition Is Not Corrected?

Continued airplane operation with damaged cables could result in rudder cable system failure with possible loss of airplane control.

Has FAA Taken Any Action To This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Eagle Model 150B airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 2, 2001 (66 FR 59). The NPRM proposed to require you to:

—Inspect the rudder cables for fraying, broken strands, etc. (referred to as damage), and replace any damaged cables; and

—Replace the rudder cable pulleys with larger diameter pulleys to eliminate the possibility of further damage.

Was the Public Invited To Comment?

Interested persons were afforded an opportunity to participate in the making of this amendment. We have given due consideration to the comment received.

Comment Disposition

What Is the Commenter's Concern?

Eagle Aircraft Pty. Ltd requests that FAA withdraw the AD because pulley replacement kits to correct the unsafe condition have been shipped to the United States and all affected airplanes models may already be in compliance with this AD.

What Is FAA's Response To the Concern?

We do not concur. Although there may be airplanes on the U.S. Register that have already incorporated the kit installation, the AD is still justified. Issuing an AD is the only way to assure that:

—The installation of the pulley replacement kit is incorporated on any U.S.-registered airplane;

—The actions are accomplished on any airplane that is imported from another country and placed on the U.S. Register; and

—The installation continues to be incorporated on all U.S. registered airplanes.

We have not changed the AD as a result of this comment.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 5 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection of the rudder cable and replacement of the rudder cable pulley:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours × $60	$286	$586	$2,930

Replacement cables, if necessary, will cost $305 perairplane. We have no way of determining the number of rudder cables that will be found damaged during the inspection.

Compliance Time of this AD

What Is the Compliance Time of This AD?

The compliance time of this AD will be to accomplish the inspection and rudder cable pulley replacement ''within the next 100 hours time-in-service (TIS) after the effective date of this AD'' and to accomplish any necessary cable replacement ''prior to further flight after the inspection.''

Why Are the Compliance Times of the Australian AD Different From the Compliance Times in This AD?

The Australian AD requires (on Eagle Model 150B airplanes registered in Australia) the inspection within the next 5 hours of service and requires the pulley replacement within 100 hours of operation. These are the compliance times specified in the service information.

We do not have justification to require the inspection within 5 hours of service. We use compliance times such as this when we have identified an urgent safety of flight situation. We believe that 100 hours TIS will give the owners/operators of the affected airplanes enough time to have the inspection and replacement accomplished without compromising the safety of the airplanes.

By accomplishing both the inspection and replacement at the same time, the owners/operators of the affected airplanes only have their airplanes out of service once instead of twice.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–09–16 Eagle Aircraft Pty. Ltd.: Amendment 39–12223; Docket No. 2000–CE–22–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model 150B airplanes, serial numbers 001 through 030, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damaged rudder cables caused by chafing of the cable against the pulleys. Continued airplane operation with damaged cables could result in rudder cable system failure with possible loss of airplane control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the rudder cables for fraying, broken strands, etc. (referred to as damage).	Within the next 100 hours time-in-service (TIS) after June 29, 2001 (the effective date of this AD).	In accordance with Eagle Service Bulletin No. 1059, dated January 21, 1999.
(2) Replace any rudder cables found damaged during the inspection.	Prior to further flight after the inspection	In accordance with the instructions in the maintenance manual, as specified in Eagle Service Bulletin No. 1059, dated January 21, 1999.
(3) Replace the rudder cable pulleys with new rudder cable pulleys, part numbers MS20220–1 and MS20220–2, change pulley attachment, and reduce cable tension.	Prior to further flight after the inspection	In accordance with Eagle Service Bulletin No. 1076, Revision 2, dated December 14, 1999.
(4) Do not install any rudder cable pulleys that are not part numbers MS20220–1 and MS20220–2 (with all associated hardware).	As of June 29, 2001 (the effective date of this AD).	Not applicable.

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

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

(2) The Manager, Los Angeles Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5232; facsimile: (562) 627–5210.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Eagle Service Bulletin No. 1059, dated January 21, 1999, and Eagle Service Bulletin No. 1076, Rev. 2, dated December 14, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Eagle Aircraft Pty. Ltd., Lot 700 Cockburn Road, Henderson WA 6166 Australia. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 29, 2001.

Note 2: The subject of this AD is addressed in Australian AD Number X–TS/2, effective December 24, 2000.

Issued in Kansas City, Missouri, on May 1, 2001.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11457 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–85–AD; Amendment 39–12222; AD 2001–09–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 and –300 Series Airplanes Equipped with Cargo Doors Installed in Accordance With Supplemental Type Certificate (STC) SA2969SO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200 and –300 series airplanes, that currently requires repetitive inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts. This amendment adds a requirement for installation of redesigned lower jamb latch support angles in the main cargo door surround structure, which would terminate the repetitive inspections. This amendment is prompted by the development of a modification that will provide better protection of the subject area against effects of structural fatigue. The actions specified by this AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

DATES: Effective June 14, 2001.

The incorporation by reference of Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995; and Pemco Service Bulletin 737–53–0003, Revision 5, dated March 25, 1999; as listed in the regulations, is approved by the Director of the Federal Register as of June 14, 2001.

The incorporation by reference of Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 24, 1995 (60 FR 2323, January 9, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201–2287. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Culler, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6084; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–01–06 R1, amendment 39–9449 (60 FR 62192, December 5, 1995), which is applicable to certain Boeing Model 737–200 and –300 series airplanes, was published in the **Federal Register** on November 22, 1999 (64 FR 63757). The action proposed to continue to require repetitive inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts. That action also adds a requirement for installation of redesigned lower jamb latch support angles in the main cargo door surround structure, which would terminate the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. Two commenters state that the airplanes they operate would not be affected by the proposed rule.

Include Additional Service Information

One commenter asks that Pemco Service Bulletin 737–53–0005, dated November 18, 1997, which specifies alignment of the door latch base and frames, be included as an alternative method of compliance in paragraph (c)(1) of the proposed rule. The commenter also asks that the actions specified in that service bulletin be added to the proposed rule as terminating action for the requirements of AD 95–01–06 R1 (above). The commenter states that its fleet was modified per the service bulletin referenced in the proposed rule, but one airplane was misaligned between the door latch base and fuselage framing at FS 490.8. The commenter accomplished the alignment specified in service bulletin 737–53–0005.

The FAA does not concur with the commenter's requests. The FAA does not find it necessary to revise this AD to include special instructions for airplanes modified with another service bulletin. Operators should note that most AD actions address modifications affecting the subject area of the AD using the note that appears as Note 1 of this AD, which states, ''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 (AMOC) in accordance with paragraph (c)(1) of this AD.'' The AMOC letter would be issued to the operator by the appropriate office, as stated in paragraph (c)(1).

Additionally, the service bulletin referenced in the final rule specifies installation of redesigned lower jamb latch support angles in the main cargo door surround structure, which would terminate the repetitive inspections.

Modification of the door latch base for better alignment is a separate issue that was not addressed in the proposed rule, and would not meet the requirements for the terminating action. No change to the final rule is necessary in this regard.

Conclusion

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

Cost Impact

There are approximately 32 airplanes of the affected design in the worldwide fleet. The FAA estimates that 2 airplanes of U.S. registry will be affected by this AD.

The inspection that is currently required by AD 95–01–06 R1, and retained in this AD, takes approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $480 per airplane, per inspection cycle.

The new installation that is required by this AD takes approximately 500 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $9,700 per airplane. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $79,400, or $39,700 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9449 (60 FR 62192, December 5, 1995), and by adding a new airworthiness directive (AD), amendment 39–12222, to read as follows:

2001–09–15 Boeing: Amendment 39–12222. Docket 99-NM–85-AD. Supersedes AD 95–01–06 R1, Amendment 39–9449.

Applicability: Model 737–200 and -300 series airplanes equipped with main deck cargo doors installed in accordance with supplemental type certificate (STC) SA2969SO, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight separation of the main deck cargo door from the airplane, accomplish the following:

Note 2: This AD references Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994; Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995; and Pemco Service Bulletin 737–53–0003, Revision 5, dated March 25, 1999; for information concerning inspection and replacement procedures. In addition, this AD specifies replacement requirements different from those included in the service letter or service bulletin. Where there are differences between the AD and the service letter or service bulletin, the AD prevails.

Restatement of Requirements AD 95–01–06 R1

Repetitive Inspections

(a) Within 50 flight cycles after January 24, 1995 (the effective date of AD 95–01–06, amendment 39–9117), or within 50 flight cycles after installation of STC SA2969SO, whichever occurs later, perform a detailed visual inspection to detect cracking in the radii on the support angles on the lower jamb of the main deck cargo door, in accordance with Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 450 flight cycles.

(2) If any cracking is detected, prior to further flight, replace the cracked part with a new part in accordance with the alert service letter. Repeat the detailed visual inspection thereafter at intervals not to exceed 450 flight cycles.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

New Requirements of This AD

Terminating Action

(b) Within 1,500 flight cycles after the effective date of this AD, install redesigned lower jamb latch lug support angles in the main cargo door surround structure in accordance with Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995, or Revision 5, dated March 25, 1999. This action constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(c)(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, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 95–01–06 R1, amendment 39–9449, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994; Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995, or Pemco Service Bulletin 737–53–0003, Revision 5, dated March 25, 1999; as applicable.

(1) The incorporation by reference of Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995; and Pemco Service Bulletin 737–53–0003, Revision 5, dated March 25, 1999; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994, was approved previously by the Director of the Federal Register as of January 24, 1995 (60 FR 2323, January 9, 1995).

(3) Copies may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201–2287. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on June 14, 2001.

Issued in Renton, Washington, on May 1, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11455 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–389–AD; Amendment 39–12221; AD 2001–09–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–243, –341, –342, and –343 Series Airplanes Equipped With Rolls Royce Trent 700 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Airbus Model A330–243, –341, –342, and –343 series airplanes equipped with Rolls Royce Trent 700 series engines. This action requires repetitive inspections of certain components, and corrective action, if necessary. This action is necessary to detect and correct fatigue cracking of the hinge assemblies and the 12 o'clock beam structure of the thrust reverser C-duct, which could cause failure of the thrust reverser hinge, resulting in separation of the thrust reverser from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 25, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 25, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 11, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–389–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–389–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Airbus Model A330–243, –341, –342, and –343 series airplanes equipped with Rolls Royce Trent 700 series engines. The DGAC advises that, during flight tests, unexpectedly high fatigue loads were measured on the hinges integrated on the 12 o'clock beam which forms the upper edge of the thrust reverser C-duct. The hinges are unable to withstand these high fatigue loads for the design life of the airplane. Resulting fatigue cracks, if not detected and corrected, could cause failure of the thrust reverser hinge, which could result in separation of the thrust reverser from the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001, which describes procedures for a general visual inspection of the hinge assemblies and the beam structure of the upper extreme edge of the thrust reverser unit C-duct for cracks, and corrective action, if necessary; a detailed visual inspection, if applicable, of hinges 2, 3, 4, and 5 in the same area for cracks, and corrective action, if necessary; and repetitions of these inspections, as applicable, at applicable intervals. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1997–118–047(B) R2, dated September 20, 2000, in order to assure the continued airworthiness of these airplanes in France.

Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001, references Rolls Royce Service Bulletin RB.211–78–B115, Revision 2, dated October 29, 1999, as an additional source of service information for

accomplishment of the inspections and corrective actions.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to detect and correct fatigue cracking of the hinge assemblies and the 12 o'clock beam structure of the thrust reverser C-duct, which could cause failure of the thrust reverser hinge, resulting in separation of the thrust reverser from the airplane. This AD requires accomplishment of the actions specified in the Airbus service bulletin described previously.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 5 work hours to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $300 per airplane, per inspection cycle.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–389–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–09–14 Airbus Industrie: Amendment 39–12221. Docket 2000–NM–389–AD.

Applicability: Model A330–243, –341, –342 and –343 series airplanes; certificated in any category; that are equipped with Rolls Royce Trent 700 series engines.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the hinge assemblies and the 12 o'clock beam structure of the thrust reverser C-duct, which could cause failure of the thrust reverser hinge, resulting in separation of the thrust reverser from the airplane, accomplish the following:

Initial and Repetitive Inspections

(a) Perform a general visual inspection of the hinge assemblies and the 12 o'clock beam structure of the right and left thrust reversers for cracks, in accordance with Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001, according to the criteria in Table 1 of this AD, below:

TABLE 1—INITIAL INSPECTION

If—	Then inspect—
Neither Airbus Modification 46879 nor 47358 has been embodied on the airplane.	Before the accumulation of 1,200 total flight cycles, or within 6 months after the effective date of this AD, whichever occurs first.
Either Airbus Modification 46879 or 47358 have been embodied on the airplane.	Before the accumulation of 2,000 total flight cycles, or 6 months after the effective date of this AD, whichever occurs first.

(1) If no crack is found during the general visual inspection required by paragraph (a) of this AD, before further flight, perform a detailed visual inspection of the lugs of hinges 2, 3, 4, and 5 of the right and left thrust reversers for cracks in accordance with Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001.

(i) If no crack is found as a result of the detailed visual inspection mandated by paragraph (a)(1) of this AD, repeat the general visual inspection mandated by paragraph (a) of this AD according to the schedule in Table 2 of this AD.

(ii) If a crack is found as a result of the detailed visual inspection mandated by paragraph (a)(1) of this AD:

(A) Before further flight, replace the affected thrust reverser with a new or serviceable thrust reverser in accordance with Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001.

(B) Repeat the general visual inspection mandated in paragraph (a) of this AD according to the schedule in Table 2 of this AD.

(2) If a crack is found during the general visual inspection required by paragraph (a) of this AD, accomplish the actions required by paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Before further flight, replace the affected thrust reverser with a new or serviceable thrust reverser in accordance with Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001.

(ii) Repeat the general visual inspection mandated in paragraph (a) of this AD according to the schedule in Table 2 of this AD, below:

TABLE 2.—REPETITIVE INSPECTIONS

If—	Then repeat the inspection at intervals not to exceed—
Neither Airbus Modification 46879 nor 47358 has been embodied on the airplane.	1,200 flight cycles.
Either Airbus Modification 46879 or 47358 has been embodied on the airplane.	2,000 flight cycles.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as a mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus Service Bulletin A330–78–3006, Revision 05, dated March 6, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 1997–118–047(B) R2, dated September 20, 2000.

Effective Date

(e) This amendment becomes effective on May 25, 2001.

Issued in Renton, Washington, on April 30, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11223 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–164–AD; Amendment 39–12225; AD 2001–09–18]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires a one-time inspection to detect cracking of the main landing gear (MLG) pistons, and repair or replacement of the pistons with new or serviceable parts, if necessary. This amendment requires, among other actions, repetitive dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons; repair and replacement of discrepant parts; and installation of a preventative modification; as applicable. This amendment also provides for an optional terminating action for certain MLG pistons. This amendment is prompted by additional reports of failure of the MLG pistons during towing of the airplanes. The actions specified by this AD are intended to prevent fatigue cracking of the MLG pistons, which could result in

failure of the pistons and subsequent damage to the airplane structure or injury to airplane occupants.

DATES: Effective June 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–19–09, amendment 39–9756 (61 FR 48617, September 16, 1996), which is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes series airplanes, was published in the **Federal Register** on October 4, 2000 (65 FR 59146). The action proposed to require, among other actions, repetitive dye penetrant and magnetic particle inspections to detect cracks of the main landing gear (MLG) pistons; repair and replacement of discrepant parts; and installation of a preventative modification; as applicable. The action also proposed an optional terminating action for certain MLG pistons.

Comments Received

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

Request To Revise Note 1 of the Proposed AD

One commenter request that the following sentence be added to Note 1 of the proposed AD: ''Modification per previous revisions of the referenced service bulletin or dispositions from the manufacturer that occurred prior to the effective date of the AD comply with the AD.''

The FAA partially agrees. We do not agree to include the sentence suggested by the commenter. However, as discussed below, we have included new notes in the final rule to give operators credit for accomplishing the preventative modification before the effective date of this AD.

Request To Give Credit for Preventative Modifications Accomplished Previously

One commenter requests that operators be given credit for accomplishing the preventative modification per the original version, or Revisions 01 through 03 of McDonnell Douglas Service Bulletin MD80–32–277, or procedures developed and analyzed by Boeing and approved by the FAA before the effective date of the AD. The commenter notes that Revision 04 of Service Bulletin MD80–32–277 (referenced as the appropriate source of service information for the requirements of this AD) contains procedures for wet grinding and flap shot peening, which were not recommended in the previous revisions of the service bulletin.

Two other commenters request that the applicability of paragraph (e)(2)(i) of the proposed AD include any MLG piston modified before the effective date of the AD per the original version, or Revisions 01 through 03 of McDonnell Douglas Service Bulletin MD80–32–277, or Service Rework Drawing SR08320081.

One of the commenters notes that one of the paragraphs in the Discussion section of the proposed AD states ''Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per a method approved by the FAA. The commenter requests that it be revised to ''* * * certain repair conditions, for all repairs performed after the effective date of this AD, this proposed AD * * * .''

The FAA partially agrees. We find that modification of any MLG piston or replacement with a modified MLG per the original version, and Revisions 1 through 4 of the referenced service bulletin, Service Rework Drawing SR08320081, or any FAA-approved preventative modification to MLG pistons, before the effective date of this AD, is considered acceptable for compliance with the preventative modification requirements of paragraphs (a)(3), (b)(1)(iii), (b)(2), and (c)(1) of this AD, and with the replacement requirements of paragraphs (c)(2) and (d)(1) of this AD. Therefore, we have included new notes in the final rule to clarify this point. With the inclusion of these new notes, we find that the applicability of paragraph (e)(2)(i) of the final rule does not need to be changed. We also find that a revision to the Discussion section, as suggested by the commenter, is not necessary because that section does not reappear in the final rule.

Request To Include Reidentified Part Number

Two commenters request that paragraph (e) of the proposed AD also reference the part number (P/N) for MLG pistons that were modified and reidentified as P/N SR09320081–3 through SR09320081–13 inclusive, depending on its corresponding original identity. One of the commenters states that it tracks the MLG pistons by the applicable ''SR'' part number, which are listed in McDonnell Douglas Service Bulletin MD80–32–277, Revisions 01 through 04.

The FAA agrees that the affected MLG piston, P/N 5935347–1 through 5935347–509 inclusive, identified in paragraph (e) of the AD, have been modified and reidentified as P/N SR09320081–3 through SR09320081–13 inclusive. We have revised paragraph (e) of the final rule to clarify this point.

Request For Clarification of Applicability of Paragraph (e)(2)(ii) of the Proposed AD

The applicability of paragraph (e)(2)(ii) of the proposed AD reads ''For any MLG piston that has been modified prior to the effective date of this AD.'' One commenter interprets this to mean pistons modified prior to December 7, 1999 (the issuance date of Revision 04 of McDonnell Douglas Service Bulletin MD80–32–277). The commenter states that it is reasonable to assume that some pistons may have been modified by Revision 04 of the referenced service bulletin since its issuance in December 1999.

From this comment, the FAA infers that the commenter is requesting that the applicability of paragraph (e)(2)(ii) of the proposed AD be clarified. We agree that clarification is necessary. The commenter is incorrect in its interpretation that the applicability of paragraph (e)(2)(ii) of the AD refers to MLG pistons modified per Revision 04 of McDonnell Douglas Service Bulletin MD80–32–277 prior to December 7, 1999. Our intent was that paragraph (e)(2)(ii) of the AD be applicable to ''For any MLG piston that has been modified

per service information other than Revision 04 of McDonnell Douglas Service Bulletin MD80–32–277 and not inspected per Revision 04 of the service bulletin prior to the effective date of this AD.'' We have revised paragraph (e)(2)(ii) of the final rule accordingly to clarify this point.

Requests To Give Credit for Repetitive Inspections Since Modification

Several commenters request that the FAA give credit to operators that are doing repetitive inspections every 2,500 landings since modification of the MLG pistons per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, for the initial inspections required by paragraph (e)(2)(ii) of the proposed AD and the repetitive inspections required by paragraph (f) of the proposed AD. Two commenters also state that paragraph (h)(2) of the proposed AD has a similar requirement and request that paragraph (h)(2) of the proposed AD also be revised.

Another commenter states that, based on its service history, any MLG piston that has been inspected every 2,500 landings provides an equivalent level of safety. The commenter has no objection to the proposed initial compliance time of within 1,500 landings or 12 months after the effective date of this AD for MLG pistons that have not been inspected.

The FAA does not consider that a change, as requested by the commenters, to the final rule is necessary. Operators are given credit for work previously performed by means of the phrase in the ''Compliance'' section of the AD that states, ''Required as indicated, unless accomplished previously.'' Therefore, in the case of paragraphs (f) and (h)(2) of this AD, if the required inspection has been accomplished prior to the effective date of this AD, this AD does not require that it be repeated. However, this AD does require that repetitive inspections be conducted thereafter at intervals not to exceed 2,500 landings (if no cracking is detected, as specified in paragraphs (f) and (i) of the final rule), and that other follow-on actions be accomplished when indicated.

Request To Revise A Certain Compliance Time in Paragraph (f) of the Proposed AD

Several commenters request that the compliance time of ''prior to the accumulation of 30,000 or more total landings on the MLG piston'' specified in paragraph (f) of the proposed AD be changed to ''within 30,000 landings since modification of the MLG.'' One of the commenters states that the subject compliance time of paragraph (f) of the proposed AD conflicts with paragraph (a)(3) of the proposed AD, which requires the preventative modification of certain MLG pistons (non-modified) that have accumulated 30,000 or more total landings to be done ''within 2 years or 5,000 landings on the MLG piston after the effective date of this AD.'' In this scenario, the commenter contends that a non-modified piston has an extended service allowance and modified pistons have been penalized.

Another commenter states that the proposed compliance time conflicts with the requirements of paragraphs (b)(1)(iii) and (e)(2) of the proposed AD. Paragraph (b)(1)(iii) of the proposed AD requires the preventative modification ''prior to the accumulation of 30,000 or more total landings on the MLG piston.'' Paragraph (e)(2) of the proposed AD requires dye penetrant and magnetic particle inspections for any MLG piston that has accumulated less than 30,000 landings since accomplishment of the modification.

It was the FAA's intent that the replacement required by paragraph (f) of the proposed AD be accomplished within 30,000 landing since modification of the MLG. Therefore, we agree with the commenters to revise the compliance time of paragraph (f) of the final rule from ''prior to the accumulation of 30,000 or more total landings on the MLG piston'' to ''within 30,000 landings since modification of the MLG'' and have revised the final rule accordingly.

Request To Revise Phrase ''Since Date of Manufacture''

One commenter requests that the phrase ''since date of manufacture'' be revised to ''since date of installation'' in paragraphs (h)(1), (h)(2), and (h)(3) of the proposed AD. The commenter states that industry's standard for tracking safe-life landing gear components is total landings accumulated from the date of installation, not the date of manufacture.

The FAA does not agree. Because MLG pistons can be taken off airplanes and sold to other operators, there potentially could be multiple installations. Operators may misinterpret ''date of installation'' to mean that every time a MLG piston is installed, the number of landings returns to zero. Therefore, we find ''date of manufacture'' (i.e., since new) to be the correct phrase.

Request To Reference Correct Service Bulletin for Optional Terminating Action

Several commenters request that paragraph (l) of the proposed AD be revised to reference McDonnell Douglas Service Bulletin MD80–32–309, which was issued by Boeing on January 31, 2000, instead of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. One commenter states that Service Bulletin MD80–32–277 does not reference any configuration beyond part number (P/N) 5935347–511 for replacement of prior configurations. The commenter also states that Service Bulletin MD80–32–309 specifies that MLG piston, P/N 5935347–517, is an approved configuration for closing action, and that it is an FAA-approved alternative method of compliance for both AD's 96–19–09 and 99–13–07.

The FAA agrees. We have reviewed McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, and acknowledge that it does not describe procedures for replacement of any MLG piston with a MLG piston, P/N 5935347–517. The correct service information for accomplishing the replacement specified in paragraph (l) of this AD is McDonnell Douglas Service Bulletin MD80–32–309, dated January 31, 2000. We have revised paragraph (l) of the final rule accordingly.

Operators should note that Service Bulletin MD80–32–309 also describes procedures for replacement of the MLG piston due to cracking near the radius of the jackball fitting. However, this proposed AD does not address the actions associated with the jackball fitting. We may consider issuing a separate rulemaking action to supersede AD 99–13–07.

Request To Include Inspection of Jackball Fitting

One commenter requests that the proposed AD require an inspection/rework of the aft torque link lug and inspection of the jackball fitting. The commenter provided no explanation for its request. The FAA does not agree. As discussed above, the FAA may issue a separate rulemaking action to address any identified unsafe condition associated with the jackball fitting.

Question About How To Determine the Inspection Interval and Imposed Life Limit

One commenter asks how to determine the inspection interval and the imposed life limit for MLG pistons that were previously modified per

McDonnell Douglas Service Bulletin MD80–32–277, when it cannot determine the times and cycles accumulated at the time of modification.

The FAA finds that, if the cycle count of the MLG piston cannot be determined at the time of modification, operators should work with an appropriate FAA Principal Maintenance Inspector (PMI), the Manager of the Los Angeles Aircraft Certification Office (ACO), and the airplane manufacturer to resolve the issue.

Conclusion

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

Cost Impact

There are approximately 1,200 Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 700 airplanes of U.S. registry will be affected by this AD.

Should an operator be required to do the dye penetrant and magnetic particle inspections, it will take approximately 2 work hours per MLG piston to accomplish the inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections required by this AD on U.S. operators is estimated to be $120 per MLG piston.

Should an operator be required to do the preventative modification, it will take approximately 6 work hours per MLG piston to accomplish the inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections required by this AD on U.S. operators is estimated to be $360 per MLG piston.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator elect to accomplish the optional terminating action that is provided by this AD action, it would take approximately 31 work hours per MLG piston to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $107,070 per MLG piston. Based on these figures, the cost impact of the optional terminating action would be $108,930 per MLG piston.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9756 (61 FR 48617, September 16, 1996), and by adding a new airworthiness directive (AD), amendment 39–12225, to read as follows:

2001–09–18 McDonnell Douglas: Amendment 39–12225. Docket 99–NM–164–AD. Supersedes AD 96–19–09, Amendment 39–9756.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; and Model MD–88 airplanes; as listed in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (m)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the main landing gear (MLG) pistons, which could result in failure of the pistons and subsequent damage to the airplane structure or injury to airplane occupants, accomplish the following:

For Airplanes on Which Certain Pistons Have Not Been Modified: Inspections

(a) For airplanes on which any MLG piston, part number (P/N) 5935347–1 through 5935347–509 inclusive, has NOT been modified: Do the actions specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999.

(1) For any MLG piston that has accumulated less than 5,000 total landings since date of manufacture: Prior to the accumulation of 5,000 total landings on the MLG piston, or within 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(2) For any MLG piston that has accumulated 5,000 or more total landings since date of manufacture, but less than 30,000 total landings since date of manufacture: Within 1,500 landings on the MLG piston or 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(3) For any MLG piston that has accumulated 30,000 or more total landings since date of manufacture: Within 2 years or 5,000 landings on the MLG piston after the effective date of this AD, whichever occurs first, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG

pistons); except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

Note 2: Modification of the MLG piston per the original version, and Revisions 01 through 04 of McDonnell Douglas Service Bulletin MD80–32–277, Service Rework Drawing SR08320081, or any FAA-approved preventative modification to MLG pistons before the effective date of this AD, is considered acceptable for compliance with the preventative modification requirements of paragraphs (a)(3), (b)(1)(iii), (b)(2), and (c)(1) of this AD.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 1 (No Crack)

(b) If no crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD, do the actions specified in either paragraph (b)(1) or (b)(2) of this AD.

(1) Condition 1, Option 1. Do the actions specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, and in paragraph (b)(1)(iii) of this AD.

(i) Repeat the inspections required by either paragraph (a)(1) or (a)(2) of this AD thereafter at intervals not to exceed 1,500 landings until the permanent modification required by paragraph (b)(1)(iii) of this AD has been done.

(ii) Before further flight, do the flap shot peening per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. Repeat the inspections required by either paragraph (a)(1) or (a)(2) of this AD thereafter at intervals not to exceed 2,500 landings until the permanent modification required by paragraph (b)(1)(iii) of this AD has been done.

(iii) Prior to the accumulation of 30,000 or more total landings on the MLG piston, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons), per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; except as required by paragraph (k) of this AD. Accomplishment of the permanent modification stops the repetitive inspection requirements of paragraphs (b)(1)(i) and (b)(1)(ii) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

(2) Condition 1, Option 2. Before further flight, do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons) per Condition 1, Option 2, of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) at the time indicated in that paragraph.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 2 (Any Crack Within Limits)

(c) If any crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD, and that crack is within the limits specified in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, before further flight, do the action(s) specified in either paragraph (c)(1) or (c)(2) of this AD.

(1) Do the preventative modification (including inspections; corrective actions, if necessary; wet grind rework area; flap shot peen rework area; and reidentify the MLG pistons) per the Accomplishment Instructions of the service bulletin; except as required by paragraph (k) of this AD. Following accomplishment of the preventative modification, do the actions specified in paragraph (e) or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) Replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

Note 3: Replacement of the MLG piston with a modified MLG per the original version, and Revisions 01 through 04 of McDonnell Douglas Service Bulletin MD80–32–277, Service Rework Drawing SR08320081, or any FAA-approved preventative modification to MLG pistons before the effective date of this AD, is considered acceptable for compliance with the replacement requirements of paragraphs (c)(2) and (d)(1) of this AD.

For Airplanes on Which Certain Pistons Have Not Been Modified: Condition 3 (Any Crack Outside Limits)

(d) If any crack is found during any inspection required by either paragraph (a)(1) or (a)(2) of this AD that is outside the limits specified in McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999, before further flight, do the action(s) specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Condition 3, Option 1. Replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) Condition 3, Option 2. Repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

For Airplanes on Which Certain Pistons Have Been Modified: Replacement or Inspections and Corrective Actions, If Necessary

(e) For airplanes on which any MLG piston, part number (P/N) 5935347–1 through 5935347–509 inclusive, has been modified and reidentified as P/N SR09320081–3 through SR09320081–13 inclusive:

(1) For any MLG piston that has accumulated 30,000 or more landings since accomplishment of the modification: Within 6 months after the effective date of this AD, replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(2) For any MLG piston that has accumulated less than 30,000 landings since accomplishment of the modification: Do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999; at the applicable time(s) specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD.

(i) For any MLG piston that has been modified per paragraph (a)(3), (b)(1)(iii), (b)(2), or (c)(1) of this AD, or that has been replaced with a modified MLG piston per paragraph (c)(2) or (d)(1) of this AD: Inspect within 2,500 landings following accomplishment of the modification or replacement with a modified MLG piston.

(ii) For any MLG piston that has been modified per service information other than Revision 04 of McDonnell Douglas Service Bulletin MD80–32–277 and not inspected per Revision 04 of the service bulletin prior to the effective date of this AD: Inspect within 1,500 landings or 12 months after the effective date of this AD, whichever occurs later.

(f) If no crack is found during any inspection required by paragraph (e)(2) of this AD, repeat the dye penetrant and magnetic particle inspections required by paragraph (e)(2) of this AD thereafter at intervals not to exceed 2,500 landings. Within 30,000 landings since modification of the MLG piston, replace the MLG piston with a new or serviceable MLG piston per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(g) If any crack is found during any inspection required by paragraph (e)(2) of this AD, before further flight, do the action(s) specified in either paragraph (d)(1) or (d)(2) of this AD.

For Airplanes on Which A Certain Piston Has Been Installed:

(h) For airplanes on which any MLG piston, P/N 5935347–511, has been installed: Do the actions specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD, as applicable, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999.

(1) For any MLG piston that has accumulated less than 5,000 total landings since date of manufacture: Prior to the accumulation of 5,000 total landings on the MLG piston, or within 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle

inspections to detect cracks of the MLG pistons.

(2) For any MLG piston that has accumulated 5,000 or more total landings since date of manufacture, but less than 30,000 total landings since date of manufacture: Within 1,500 landings on the MLG piston or 12 months after the effective date of this AD, whichever occurs later, do dye penetrant and magnetic particle inspections to detect cracks of the MLG pistons.

(3) For any MLG piston that has accumulated 30,000 or more total landings since date of manufacture: Within 6 months after the effective date of this AD, replace the MLG piston with a new or serviceable MLG piston per the service bulletin. Following accomplishment of the replacement, do the actions specified in paragraph (a), (e), or (h) of this AD, as applicable, at the time indicated in that paragraph.

(i) If no crack is found during any inspection required by either paragraph (h)(1) or (h)(2) of this AD, repeat the dye penetrant and magnetic particle inspections required by either paragraph (h)(1) or (h)(2) of this AD thereafter at intervals not to exceed 2,500 landings. Prior to the accumulation of 30,000 or more total landings on the MLG piston, do the actions specified in paragraph (d)(1) of this AD.

(j) If any crack is found during any inspection required by either paragraph (h)(1) or (h)(2) of this AD, before further flight, do the action(s) specified in either paragraph (d)(1) or (d)(2) of this AD.

Exception to Actions Referenced in Service Bulletin

(k) If any discrepancy is found during any inspection while accomplishing the preventative modification required by this AD, prior to further flight, do applicable corrective action(s) per McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. If the service bulletin specifies to contact the manufacturer for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Optional Terminating Action

(l) Replacement of any MLG piston with a new MLG piston, P/N 5935347–517, per McDonnell Douglas Service Bulletin MD80–32–309, dated January 31, 2000, constitutes terminating action for the requirements of this AD for that MLG piston.

Alternative Methods of Compliance

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

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

(2) Alternative methods of compliance, approved previously in accordance with AD 96–19–09, amendment 39–9756, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Incorporation by Reference

(o) Except as provided by paragraphs (d)(2), (k), and (l) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin MD80–32–277, Revision 04, dated December 7, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(p) This amendment becomes effective on June 14, 2001.

Issued in Renton, Washington, on May 3, 2001.

Lirio Liu Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11674 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. 2000–7426]

RIN 2125–AE77

Federal-Aid Project Agreement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on project agreements. Section 1305 of the Transportation Equity Act for the 21st Century (TEA–21) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. Changes to the agreement provisions reflect these adjustments. Additionally, section 1304 of the TEA–21 amended 23 U.S.C. 102(b) to include a provision to allow the granting of time extensions for engineering cost reimbursement. Changes to the agreement procedures are added to provide this new flexibility.

DATES: This final rule is effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Wasley, Office of Program Administration (HIPA), 202–366–4658, or Harold Aikens, Office of the Chief Counsel, 202–366–0791, Federal Highway Administration, 400 Seventh 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: The amendments in this final rule are based primarily on the notice of proposed rulemaking (NPRM) published on August 31, 2000, at 65 FR 52962 (FHWA Docket No. 2000–7426). All comments received in response to this NPRM have been considered in adopting these amendments.

Electronic Access

Internet users may 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. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov.*

Background

Under the provisions of 23 U.S.C. 106, a formal agreement between the State transportation department (STD) and the FHWA is required for Federal-aid highway projects. This agreement, referred to as the ''project agreement,'' is in essence a written contract between the State and the Federal Government defining the extent of the work to be undertaken, the State and the Federal shares of a project's cost, and commitments concerning maintenance of the project.

The present regulation at 23 CFR 630, subpart C, provides requirements concerning the project agreement. It includes detailed instructions on preparation of the project agreement, and an assemblage of agreement provisions that are part of the project agreement.

The present regulation at 23 CFR 630, subpart A, provides requirements concerning the project authorization. The FHWA project authorization commits the Federal Government to participate in the funding of a project, except in those instances where the State requests FHWA authorization without the commitment of Federal funds. In addition, FHWA authorization also establishes a point in time after which costs incurred on a project are eligible for Federal participation.

Requirements covering project agreements are contained in this final rule. This final rule updates and modifies the existing regulation to incorporate needed changes made by sections 1304 and 1305 of the TEA–21, Public Law 105–178, 112 Stat.107, it combines the project agreement and the project authorization of work. The final rule amends these regulations in the manner and for the reasons indicated below.

Discussion of Comments

The FHWA published a notice of proposed rulemaking (NPRM) concerning proposed revisions to Part 630 on August 31, 2000, at 65 FR 52962. Interested persons were invited to participate in the development of this final rule by submitting written comments to the FHWA. Only one State transportation agency submitted comments. The State agency provided two comments on proposed § 630.106(f), and four comments concerning clarification of the NPRM's section-by-section analysis of § 630.106(f).

Section 630.106(f)(2) discusses the manner for establishing the Federal share of eligible project costs. The comment was: Could an agreement with a lump sum Federal share be changed to a pro rata Federal share? Yes, when the Federal share in the project agreement is changed, the manner in which the Federal share is established can also be changed. The Federal share established as either lump sum or pro rata in the project agreement at the time of authorization does not have to be the same, but the Federal share can only be adjusted to reflect the actual bid amount received. The final rule is not changed as a result of this comment.

Concerning the section-by-section analysis for § 630.106(f), the commenter requested explanation of the following: (1) whether the Federal share agreed to would continue through the life of the project; and (2) whether manipulation of the funding levels of individual projects to accommodate program funding changes or needs would not be allowed. The FHWA believes that once a project is under agreement the amount of Federal funds and appropriation type cannot be changed except to reflect a change in the bids received or any one of the four general categories for exceptions contained in § 630.106(c)(1) through (c)(4).

A follow up comment stated that the agency would not support any regulation that would require additional funds to cover project cost overruns. Establishing the contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project is a legislative requirement of 23 U.S.C. 106(a)(3). The Federal Government cannot commit future funds that might not be available. Funds must be available at the time the project agreement is executed. The State is still required to prepare a modification to a project agreement as changes occur. In the same paragraph, it was suggested that the term ''significantly'' be removed from the analysis section to avoid any vagueness. The term ''significant'' rather than ''substantive'' is used in the discussion to account for different interpretations of what is substantial. The word ''significantly'' might suggest considerable in amount, which might not recognize that flexibility may be applied for project implementation. The rule does not attempt to apply hard and fast rules or percentages as project needs and circumstances vary. Current § 630.106(f)(2), that allows a change in the project agreement to reflect the actual bid received, uses the term ''substantive'' when compared to the STD's estimated cost to trigger an adjustment to the Federal share. The cost difference should have real meaning when compared to the total cost before an adjustment is made to the Federal share. For example, a thousand dollar cost difference, when compared to a million dollar estimate doesn't have much meaning. Therefore, substantial may be viewed differently among local, regional, and State projects.

The State agency asked if the manner established for the Federal-aid share of eligible project costs under proposed § 630.106(f)(1) could be changed at the time an adjustment is made to reflect the actual bids received. The long standing regulatory provision, retained in § 630.106(f)(2), that allows a one time change in the project agreement to reflect the actual bid received, also permits the manner established for the Federal-aid share to be changed. Adjustments to the Federal share, or the manner in which established under § 630.106(f)(1) will only be permitted for projects in situations where bid prices are significantly different from the estimates at the time of FHWA authorization. A change in the Federal commitment from the agreed to amount of Federal funds obligated from a specific Federal appropriation type or category of funds, to take advantage of new appropriations or to switch appropriations of individual projects to accommodate program funding changes or needs, is not allowed except for authorization to proceed under § 630.106(c). The four general categories for exceptions to this rule contained in § 630.106(c)(1) through (4) allow a change to any category of funds eligible at the time funds are available for conversion to a contractual obligation of the Federal government under 23 U.S.C. 106.

The State agency proposed changing the wording in § 630.106(f)(2) from ''shortly after'' to ''based on.'' The State agency felt that the term ''shortly'' was too vague. It is our intent to make any funding changes, made as a result of actual bids, as soon as it is practical after the bids are received within the same Federal fiscal year. Our intent is not to have Federal commitments outstanding. Funding changes in the amount of Federal funds committed as a result of actual bids received should be as soon as practicable within the same Federal fiscal year that the bids are received. For these reasons, we are not changing the wording in § 630.106(f)(2).

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U. S. Department of Transportation regulatory policies and procedures. The final rule updates the Federal-aid project agreement regulation to conform to recent laws, regulations, or guidance and clarifies existing policies. The economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA certifies that this action will not have a significant

economic impact on a substantial number of small entities. This rule clarifies and simplifies procedures used by State highway agencies in accordance with existing laws, regulations, or guidance.

Unfunded Mandates Reform Act of 1995

This rule would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not economically significant and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that it does not have a substantial direct affect or significant federalism implications on States or local governments that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the final rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. A formal project agreement between the FHWA and a State is required for all Federal-aid projects. The project agreement process under this final rule has not changed for Indian tribal governments. Federal-aid funds for projects involving Indian tribal governments will continue indirectly through the State. Authorization, project agreement, and obligation of funds are by statute a combined action. To avoid confusion and misinterpretations, the final regulation (23 CFR 630) is being revised to reflect current procedures. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has reviewed this rule and determined that the information collection requirements associated with this rulemaking are covered by a currently approved information collection, OMB Approval No. 2125–0529, entitled, ''Preparation and Execution of the Project Agreement and Modifications,'' which is due to expire on May 31, 2001. There are no changes to the current information collection burden estimates as a result of this final rule. Interested persons were invited to provide comments regarding this information collection as a part of the development of this final rule by submitting written comments on the NPRM. No comments were received regarding these information collection requirements. This final rule updates and modifies the existing requirements to reflect statutory changes to the project agreement process enacted by section 1305 of the Transportation Equity Act for the 21st Century (TEA–21, Pub. L. 105–178) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 630

Government contracts, Grant programs—Transportation, Highways and roads, Project agreement procedures.

Issued on: May 3, 2001.

Vincent F. Schimmoller,

Deputy Executive Director, Federal Highway Administration.

In consideration of the foregoing, the FHWA amends title 23, chapter I, Code of Federal Regulations, by amending part 630, as set forth below.

PART 630—PRECONSTRUCTION PROCEDURES

1. Revise the authority citation for part 630 to read as follows:

Authority: 23 U.S.C. 106, 109, 115, 315, 320, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

2. Revise subpart A of part 630 to read as follows:

Subpart A—Project Authorization and Agreements

Sec.

§ 630.102 Purpose.

The purpose of this subpart is to prescribe policies for authorizing Federal-aid projects through execution of the project agreement required by 23 U.S.C. 106(a)(2).

§ 630.104 Applicability.

(a) This subpart is applicable to all Federal-aid projects unless specifically exempted.

(b) Other projects which involve special procedures are to be approved, or authorized as set out in the implementing instructions or regulations for those projects.

§ 630.106 Authorization to proceed.

(a)(1) The State transportation department (STD) must obtain an authorization to proceed from the FHWA before beginning work on any Federal-aid project. The STD may request an authorization to proceed in writing or by electronic mail for a project or a group of projects.

(2) The FHWA will issue the authorization to proceed either through or after the execution of a formal project agreement with the State. The agreement can be executed only after applicable prerequisite requirements of Federal laws and implementing regulations and directives are satisfied. Except as provided in paragraphs (c)(1) through (c)(4) of this section, the FHWA will obligate Federal funds in the project or group of projects upon execution of the project agreement.

(b) Federal funds shall not participate in costs incurred prior to the date of a project agreement except as provided by 23 CFR 1.9(b).

(c) The execution of the project agreement shall be deemed a contractual obligation of the Federal government under 23 U.S.C. 106 and shall require that appropriate funds be available at the time of authorization for the agreed Federal share, either pro rata or lump sum, of the cost of eligible work to be incurred by the State except as follows:

(1) Advance construction projects authorized under 23 U.S.C. 115.

(2) Projects for preliminary studies for the portion of the preliminary engineering and right-of-way (ROW) phase(s) through the selection of a location.

(3) Projects for ROW acquisition in hardship and protective buying situations through the selection of a particular location. This includes ROW acquisition within a potential highway corridor under consideration where necessary to preserve the corridor for future highway purposes. Authorization of work under this paragraph shall be in accord with the provisions of 23 CFR part 710.

(4) In special cases where the Federal Highway Administrator determines it to be in the best interest of the Federal-aid highway program.

(d) For projects authorized to proceed under paragraphs (c)(1) through (c)(4) of this section, the executed project agreement shall contain the following statement: ''Authorization to proceed is not a commitment or obligation to provide Federal funds for that portion of the undertaking not fully funded herein.''

(e) For projects authorized under paragraphs (c)(2) and (c)(3) of this section, subsequent authorizations beyond the location stage shall not be given until appropriate available funds have been obligated to cover eligible costs of the work covered by the previous authorization.

(f)(1) The Federal-aid share of eligible project costs shall be established at the time the project agreement is executed in one of the following manners:

(i) Pro rata, with the agreement stating the Federal share as a specified percentage; or

(ii) Lump sum, with the agreement stating that Federal funds are limited to a specified dollar amount not to exceed the legal pro rata.

(2) The pro-rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the STD's estimated cost of the project at the time of FHWA authorization, provided that Federal funds are available.

(3) Federal participation is limited to the agreed Federal share of eligible costs actually incurred by the State, not to exceed the maximum permitted by enabling legislation.

(g) The State may contribute more than the normal non-Federal share of title 23, U.S.C. projects. In general, financing proposals that result in only minimal amounts of Federal funds in projects should be avoided unless they are based on sound project management decisions.

(h)(1) Donations of cash, land, material or services may be credited to the State's non-Federal share of the participating project work in accordance with title 23, U.S.C., and implementing regulations.

(2) Contributions may not exceed the total costs incurred by the State on the project. Cash contributions from all sources plus the Federal funds may not exceed the total cost of the project.

§ 630.108 Preparation of agreement.

(a) The STD shall prepare a project agreement for each Federal-aid project.

(b) The STD may develop the project agreement in a format acceptable to both the STD and the FHWA provided the following are included:

(1) A description of each project location including State and project termini;

(2) The Federal-aid project number;

(3) The work covered by the agreement;

(4) The total project cost and amount of Federal funds under agreement;

(5) The Federal-aid share of eligible project costs expressed as either a pro rata percentage or a lump sum as set forth in § 630.106(f)(1);

(6) A statement that the State accepts and will comply with the agreement provisions set forth in § 630.112;

(7) A statement that the State stipulates that its signature on the project agreement constitutes the making of the certifications set for in § 630.112; and

(8) Signatures of officials from both the State and the FHWA, and the date executed.

(c) The project agreement should also document, by comment, instances where:

(1) The State is applying amounts of credits from special accounts (such as the 23 U.S.C. 120(j) toll credits, 23 U.S.C. 144(n) off-system bridge credits and 23 U.S.C. 323 land value credits) to cover all or a portion of the normal percent non-Federal share of the project;

(2) The project involves other arrangements affecting Federal funding or non-Federal matching provisions, including tapered match, donations, or use of other Federal agency funds, if known at the time the project agreement is executed; and

(3) The State is claiming finance related costs for bond and other debt instrument financing (such as payments to States under 23 U.S.C. 122).

(d) The STD may use an electronic version of the agreement as provided by the FHWA.

(Approved by the Office of Management and Budget under control number 2125–0529)

§ 630.110 Modification of original agreement.

(a) When changes are needed to the original project agreement, a modification of agreement shall be prepared. Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute.

(b) The STD may develop the modification of project agreement in a format acceptable to both the STD and the FHWA provided the following are included:

(1) The Federal-aid project number and State;

(2) A sequential number identifying the modification;

(3) A reference to the date of the original project agreement to be modified;

(4) The original total project cost and the original amount of Federal funds under agreement;

(5) The revised total project cost and the revised amount of Federal funds under agreement;

(6) The reason for the modifications; and,

(7) Signatures of officials from both the State and the FHWA and date executed.

(c) The STD may use an electronic version of the modification of project agreement as provided by the FHWA.

§ 630.112 Agreement provisions.

(a) The State, through its transportation department, accepts and agrees to comply with the applicable terms and conditions set forth in title 23, U.S.C., the regulations issued pursuant thereto, the policies and procedures promulgated by the FHWA relative to the designated project covered by the agreement, and all other applicable Federal laws and regulations.

(b) Federal funds obligated for the project must not exceed the amount agreed to on the project agreement, the balance of the estimated total cost being an obligation of the State. Such obligation of Federal funds extends only to project costs incurred by the State after the execution of a formal project agreement with the FHWA.

(c) The State must stipulate that as a condition to payment of the Federal funds obligated, it accepts and will comply with the following applicable provisions:

(1) *Project for acquisition of rights-of-way.* In the event that actual construction of a road on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which the project is authorized, the STD will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension beyond the 20-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.

(2) *Preliminary engineering project.* In the event that right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the STD will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension for any preliminary engineering project beyond the 10-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.

(3) *Drug-free workplace certification.* By signing the project agreement, the STD agrees to provide a drug-free workplace as required by 49 CFR part 29, subpart F. In signing the project agreement, the State is providing the certification required in appendix C to 49 CFR part 29, unless the State provides an annual certification.

(4) *Suspension and debarment certification.* By signing the project agreement, the STD agrees to fulfill the responsibility imposed by 49 CFR 29.510 regarding debarment, suspension, and other responsibility matters. In signing the project agreement, the State is providing the certification for its principals required in appendix A to 49 CFR part 29.

(5) *Lobbying certification.* By signing the project agreement, the STD agrees to abide by the lobbying restrictions set forth in 49 CFR part 20. In signing the project agreement, the State is providing the certification required in appendix A to 49 CFR part 20.

Subpart C—[Removed and Reserved]

3. In part 630, remove and reserve subpart C.

[FR Doc. 01–11810 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13–01–008]

RIN 2115–AE46

Date Change for Special Local Regulation (SLR), Seattle National Maritime Week Tugboat Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of change in implementation.

SUMMARY: The Coast Guard announces a change to the effective date for the Seattle National Maritime Week Tugboat Race Special Local Regulation (SLR) as per 33 CFR 100.1306(c). This year's event will be held on Saturday, May 12th, 2001, necessitating this effective date change.

DATES: 33 CFR 100.1306 is effective May 12, 2001, from 12 p.m. to 4:30 p.m.

Dated: May 3, 2001.

M.D. Dawe,

Commander, U.S. Coast Guard, Commander, Group Seattle.

[FR Doc. 01–11847 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY47–218, FRL–6940–1]

Approval and Promulgation of Implementation Plans; New York 15 and 9 Percent Rate of Progress Plans, Phase I Ozone Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan revision submitted by New York which is intended to meet several Clean Air Act requirements. Specifically, EPA is approving the 1990 base year ozone emission inventory (for all ozone nonattainment areas in New York); the 1996 and 1999 ozone projection emission inventories; the demonstration that emissions from growth in vehicle miles traveled will not increase total motor vehicle emissions and, therefore, offsetting measures are not necessary; the photochemical assessment monitoring stations network; and enforceable commitments. EPA is also approving New York's 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the one-hour national ambient air quality standard for ozone.

EFFECTIVE DATE: This rule will be effective June 11, 2001.

ADDRESSES: Copies of the State's submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

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

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

I. Background

On November 3, 1999 (64 FR 59706), EPA proposed approval of New York's State Implementation Plan (SIP) submittal of November 15, 1993, September 4, 1997, and February 2, 1999. These SIP submittals address the requirements for the one severe ozone nonattainment area in New York, the New York-Northern New Jersey-Long Island Nonattainment Area. The New York portion of the New York-Northern New Jersey-Long Island Area is composed of New York City and the counties of Nassau, Suffolk, Westchester, Rockland, and seven towns in Orange County—Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury. The primary focus of this **Federal Register** action is the New York portion of the New York-Northern New Jersey-Long Island Area (referred to as the New York Metro Area).

The following Clean Air Act (CAA) requirements were included in the November 3, 1999 proposal: the 1990 base year emission inventory as revised on February 2, 1999 (Volatile organic compounds (VOC), Nitrogen oxides (NO_X) and Carbon monoxide (CO) for areas designated nonattainment for ozone since 1991 in New York); the 1996 and 1999 ozone projection emission inventories; 15 Percent Rate-Of-Progress (ROP) and 9 Percent Reasonable Further Progress (RFP) Plans; contingency measures (EPA will be acting on the contingency measures in a separate **Federal Register** notice); demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; preliminary modeling efforts completed before the submittal of the 1-hour ozone attainment demonstration; enforceable commitments for Phase II of the 1-hour ozone SIP development and approval process as defined in EPA's November 3, 1999 proposed approval; photochemical assessment monitoring stations network; and transportation conformity budgets for 1996 and 1999. EPA is approving these transportation conformity budgets since they were submitted as SIP revisions. However, it should be noted that these budgets are no longer used in conformity determinations because New York has since submitted budgets for 2002, 2005, and 2007. On June 9, 2000 (65 FR 36690), EPA found these budgets to be adequate for conformity purposes.

EPA has determined that New York has satisfied EPA's Phase I requirement for the clean fuel fleet program and Ozone Transport Commission NO_X Memoranda of Understanding.

A detailed discussion of the SIP revisions and EPA's rationale for approving them is contained in the November 3, 1999 proposal and will not be restated here. The reader is referred to the proposal for more details.

II. Public Comments

No comments were received in response to EPA's proposed action on this New York SIP revision.

III. Enhanced Inspection and Maintenance (I/M) Program

In EPA's November 3, 1999 proposal, EPA proposed to approve emission credits for the 15 Percent ROP and 9 Percent RFP Plans, pending EPA's verification of New York's enhanced motor vehicle inspection and maintenance (I/M) program's effectiveness.

On May 24, 1999 New York submitted to EPA an enhanced I/M program evaluation report/program effectiveness demonstration. Following EPA's evaluation of the enhanced I/M program effectiveness demonstration, the Agency has determined that New York's enhanced I/M program will provide adequate emission reductions compared to the emission reductions credited in the 15 Percent ROP and 9 Percent RFP Plans. On May 7, 2001 at (66 FR 22922) EPA approved New York's enhanced I/M program effectiveness demonstration. Accordingly, the emission reduction credits associated with New York's enhanced I/M program have been taken into consideration in today's approval of New York's 15 Percent ROP and 9 Percent RFP Plans.

IV. Conclusion

EPA has evaluated New York's submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New York's: 1990 base year emission inventory as revised on February 2, 1999 (VOC, NO_X and CO for areas designated nonattainment for ozone since 1991 in New York); 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring station network; demonstration that emissions from growth in vehicle miles traveled will not increase total motor vehicle emissions; preliminary modeling efforts completed before the submittal of the 1-hour ozone attainment demonstration; transportation conformity budgets for 1996 and 1999; and enforceable commitments for Phase II of the 1-hour ozone SIP development and approval process. EPA is also approving the 15 Percent ROP and 9 Percent RFP Plans.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This final action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final 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.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this final rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps

to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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 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. section 804(2). This rule will be effective June 11, 2001.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 19, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1683 is amended by adding new paragraph (h) to read as follows:

§ 52.1683 Control strategy: Ozone.

* * * * *

(h)(1) The 1990 base year emission inventory as revised on February 2, 1999 (Volatile organic compounds (VOC), Nitrogen oxides (NO_X) and Carbon monoxide (CO) for areas designated nonattainment for ozone since 1991 in New York) is approved.

(2) The 1996 and 1999 ozone projection year emission inventories included in New York's February 2, 1999 State Implementation Plan revision for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area are approved.

(3) The 1996 and 1999 conformity emission budgets for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area included in New York's February 2, 1999 State Implementation Plan revision are approved.

(4) The photochemical assessment monitoring stations network included in New York's February 2, 1999 State Implementation Plan revision is approved.

(5) The demonstration that emissions from growth in vehicle miles traveled will not increase total motor vehicle emissions and, therefore, offsetting measures are not necessary, which was included in New York's February 2, 1999 State Implementation Plan revision for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area is approved.

(6) The enforceable commitments to: participate in the consultative process to address regional transport; adopt additional control measures as necessary to attain the ozone standard, meeting rate of progress requirements, and eliminating significant contribution to nonattainment downwind; identify any reductions that are needed from upwind areas for the area to meet the ozone standard, included in New York's February 2, 1999 State Implementation Plan revision for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area are approved.

(7) The 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan included in the New York's February 2, 1999 State Implementation Plan revision for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area are approved.

[FR Doc. 01–11835 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. NY46–217a, FRL–6977–2]

Approval and Promulgation of State Plans For Designated Facilities; NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the New York supplementary submittal for meeting EPA's conditional approval of the New York State Plan for regulating existing MSW Landfills. The State Plan establishes performance standards for existing Municipal Solid Waste landfills located in New York State and provides for the implementation and enforcement of those standards, which will reduce the designated pollutants.

DATES: This direct final rule is effective on July 9, 2001 without further notice, unless EPA receives adverse comment by June 11, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the state submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

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

FOR FURTHER INFORMATION CONTACT: Craig Flamm, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New

York 10007–1866, (212) 637–4021, email: *flamm.craig@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On July 19, 1999 (64 FR 38582), EPA conditionally approved the New York State Plan for regulating existing Municipal Solid Waste (MSW) Landfills. The reader is referred to the July 19, 1999 rulemaking action for a more detailed description and the rationale of EPA's conditional approval of the New York MSW Landfills State Plan. The conditional approval was contingent on New York providing EPA with modified Title V or State Operating Permits containing compliance schedules with all five increments of progress outlined in Subpart Cc of 40 CFR part 60, the Emission Guidelines for existing Municipal Solid Waste Landfills. The permits were due within one year of the effective date of the conditional approval, September 17, 1999.

On September 18, 2000, the New York State Department of Environmental Conservation (NYSDEC) submitted a statement that NYSDEC inspected all previously identified landfills in New York that meet the criteria for a major source. The NYSDEC identified one landfill out of compliance and one newly identified landfill which is currently under review by the NSDEC and which might require controls. The NYSDEC stated that during the inspections it was confirmed that the rest of the landfills in question were in compliance with New York's State Plan thereby making increments of progress unnecessary for these landfills.

The two landfills that are not in compliance currently are the Ontario Landfill and the Babylon Landfill. EPA received a timely Title V operating permit with appropriate increments of progress and compliance deadlines for the Ontario Landfill. The Babylon Landfill was discovered only recently by NYSDEC, and EPA is confident that the landfill was discovered in good faith and that an appropriate applicability determination will be completed in a timely manner and a compliance schedule with increments of progress will be submitted to the EPA if they are needed. All remaining landfills in New York have met the requirements for all five increments of progress. Should New York identify any new Municipal Solid Waste Landfills that meet the existing landfill criteria and require controls, New York shall submit increments of progress for those facilities as well to the EPA.

Conclusion

EPA has evaluated the Municipal Solid Waste Landfill State Plan submitted by New York for consistency with the Act, EPA guidelines and policy. EPA has determined that New York's State Plan contains all approvable elements and critical compliance dates. Therefore, EPA is approving New York's Plan to implement and enforce 40 CFR Subpart Cc, as it applies to existing MSW Landfills.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan revision should adverse comments be filed. This rule will be effective July 9, 2001 without further notice unless the Agency receives adverse comments by June 11, 2001.

If the EPA receives adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This final action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final 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.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this final rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State Plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State Plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the 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). This rule will be effective July 9, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: April 19, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–11829 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1611

Testimony by Employees in Legal Proceedings

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: This rule amends 40 CFR part 1611 (Testimony by Employees in Legal Proceedings), published at 66 FR 17364 (March 30, 2001). Part 1611 provides the Chemical Safety and Hazard Investigation Board's (CSB) policy concerning testimony of CSB employees in legal proceedings. This rule amends § 1611.2 (Definitions) to add a definition of ''employee'' and amends § 1611.6 (Testimony of former CSB employees) to add a requirement that former employees notify the CSB General Counsel when they are served with a subpoena relating to work performed for the CSB.

DATES: This rule is effective May 10, 2001.

FOR FURTHER INFORMATION CONTACT: Raymond C. Porfiri, (202) 261–7600.

SUPPLEMENTARY INFORMATION: (1) Amendment to section 1611.2. The current CSB rule on testimony by employees in legal proceedings, 40 CFR part 1611, published at 66 FR 17364 (March 30, 2001) does not define ''employee.'' The CSB has determined that for the purpose of part 1611 (as well as part 1612, ''Production of Records in Legal Proceedings'') ''employee'' should be defined to include all those who undertake work for the CSB and who may come into contact with protected information. Thus ''employee'' is defined to include: current or former CSB Board Members or employees, including student interns, and contractors, contract employees, or consultants (and their employees). But it is made clear that this definition does not include persons who are no longer employed by or under contract to the CSB, and who are retained or hired as expert witnesses or agree to testify about matters that do not involve their work for the CSB.

Other agencies have included a similarly broad definition of employee for this purpose. *See, e.g.,* Federal Energy Regulatory Commission, 18 CFR 388.111; Department of State, 22 CFR 172.1; USAID, 22 CFR 206.1; Overseas Private Investment Corporation, 22 CFR 713.10; Department of the Navy, 32 CFR 725.4; and U.S. Postal Service, 39 CFR 265.13. Moreover, CSB contractors are already required to sign non-disclosure agreements, prohibiting them from disclosing in any forum (except to CSB employees) trade secret or confidential business information obtained in their work for the CSB.

The need for this broad definition of employee is even more necessary at the CSB because, pursuant to 42 U.S.C. 7412(r)(6)(G), no part of the conclusions, findings or recommendations of the CSB relating to an accidental release or the investigation thereof, may be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report.

(2) Amendment to section 1611.6. The current rule pertaining to former employees is clarified to include a requirement that any former employee who is served with a subpoena to appear and testify in connection with civil litigation that relates to his or her work with the CSB, shall immediately notify the CSB General Counsel and provide all information requested by the General Counsel. This clarification is necessary to give notice to former employees of their obligation in this regard, and to provide the agency with advance notice of a potential problem.

Public Comment Procedures: Because this rule amends an internal policy for CSB employees, the Administrative Procedure Act does not require that it be published as a proposed regulation for notice and public comment. *See* 5 U.S.C. 553(a)(2). This rule provides immediate clarifying guidance pertaining to CSB employee testimony. As such, the CSB finds that good cause exists for making the regulation effective immediately upon publication. *See* 5 U.S.C. 553(b)(3)(B).

Compliance With Other Laws

Regulatory Planning and Review (E.O. 12866)

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

(1) This regulation will not have an effect of $100 million or more on the economy. This regulation regulates how and when CSB employee testimony may be provided in certain situations. As such, it will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

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

(3) This regulation does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This regulation is consistent with well-established constitutional and statutory principles and does not raise novel legal or policy issues.

Regulatory Flexibility Act

The CSB certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This regulation merely regulates how and when CSB employees may testify in certain situations.

Small Business Regulatory Enforcement Fairness Act

This regulation is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. Because this regulation only regulates how and when CSB employees may testify in certain situations, this regulation:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions.

c. Does not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This regulation does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This regulation does not have a significant or unique effect on State, local or tribal governments or the private sector because this regulation only regulates how and when CSB employees may testify in certain situations. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this regulation does not have significant takings implications. A takings implication assessment is not required.

Federalism (E.O. 13132)

The CSB has determined this regulation conforms to the Federalism principals of Executive Order 13132. It also certifies that to the extent a regulatory preemption occurs, it is because the exercise of State and Tribal authority conflicts with the exercise of Federal authority under the U.S. Constitution's Supremacy Clause and Federal statute. This regulation is, however, restricted to the minimum level necessary to achieve the objectives of 5 U.S.C. 301 pursuant to which this regulation is promulgated.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the CSB has determined that this regulation does not unduly burden the judicial system, and does meet the requirements of section 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation contains no reporting or recordkeeping requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3510 *et seq.*

National Environmental Policy Act (NEPA)

This regulation does not constitute a major Federal action significantly affecting the quality of the human environment under NEPA, 42 U.S.C. 4321 *et seq.* A detailed statement under the NEPA is not required.

List of Subjects

Administrative practice and procedure, Freedom of information, Government employees, Investigations, Testimony of employees.

For the reasons stated in the preamble, the Chemical Safety and Hazard Investigation Board amends 40 CFR part 1611 as follows:

PART 1611—TESTIMONY BY EMPLOYEES IN LEGAL PROCEEDINGS

1. The authority citation for part 1611 continues to read as follows:

Authority: 5 U.S.C. 301, 42 U.S.C. 7412(r)(6)(G).

2. Amend § 1611.2 to add a new definition paragraph as follows:

§ 1611.2 Definitions.

* * * * *

Employee, for the purpose of this part and part 1612 of this chapter, refers to current or former CSB Board Members or employees, including student interns, and contractors, contract employees, or consultants (and their employees). This definition does not include persons who are no longer employed by or under contract to the CSB, and who are retained or hired as expert witnesses or agree to testify about matters that do not involve their work for the CSB.

3. Amend § 1611.6 to redesignate the existing text as paragraph (a) and to add a new paragraph (b) as follows:

§ 1611.6 Testimony of former CSB employees.

(a) * * *

(b) Any former employee who is served with a subpoena to appear and testify in connection with civil litigation that relates to his or her work with the CSB, shall immediately notify the CSB General Counsel and provide all information requested by the General Counsel.

Dated: May 1, 2001.

Christopher W. Warner,

General Counsel.

[FR Doc. 01–11791 Filed 5–9–01; 8:45 am]

BILLING CODE 6350–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 270

RIN 0970–AC06

High Performance Bonus Awards Under the TANF Program

AGENCY: Administration for Children and Families, HHS.

ACTION: Interim final rule; request for comments.

SUMMARY: The final rule covering the Temporary Assistance for Needy Families (TANF) high performance bonuses to States in FY 2002 and beyond was published August 30, 2000 (65 FR 52814). This interim final regulation further implements the child care measure, one of the measures on which we will award bonuses to States in FY 2002 and FY 2003.

Specifically, we explain how we will compute scores and rank States on the affordability component using four income ranges and a comparison of the number of children eligible under the State's income limits compared to the federal eligibility limits. We also specify how we will compute scores and rank States for the child care quality component based on new reporting requirements for market rate surveys for child care.

DATES: Effective date: This interim final rule is effective on May 10, 2001, except for § 270.4(e)(2)(ii) which requires an information collection that is not yet approved by the Office of Management and Budget (OMB). We will publish a document in the **Federal Register** announcing the effecitve date of § 270.4(e)(2)(ii) when the additional data collection requirement is approved by OMB.

Comment period: You may submit comments through July 9, 2001. We will not consider comments received after this date.

ADDRESSES: You may mail comments to the Administration for Children and Families, Child Care Bureau, 330 C Street SW., Room 2046, Washington, DC 20447. Attention: Gail Collins.

Commenters may also provide comments on the ACF website. Electronic comments must include the full name, address and organizational affiliation (if any) of the commenter. This interim rule is accessible electronically via the Internet from the ACF Welfare Reform Home Page at http:www.acf.dhhs.gov/news/welfare.

FOR FURTHER INFORMATION CONTACT: Gail Collins, Acting Deputy Commissioner, Administration for Children, Youth and Families at (202) 205–8347. Ms. Collins's e-mail address is: gcollins@acf.dhhs.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. The Temporary Assistance for Needy Families Program

Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, established the Temporary Assistance for Needy Families (TANF) program under title IV–A of the Social Security Act (the Act), 42 U.S.C. 401 *et seq.* TANF is a block grant program designed to make dramatic reforms in the nation's welfare system. Its focus is on moving recipients into work and turning welfare into a program of temporary assistance, preventing and reducing the incidence of out-of-wedlock births, and promoting stable two-parent families. Other key features of TANF include provisions that emphasize program accountability through financial penalties and rewards for high performance.

B. Summary of the Statutory Provisions Related to the High Performance Bonus

Section 403(a)(4) of the Act requires the Secretary to award bonuses to ''high performing States.'' (Indian tribes are not eligible for these bonuses.) The term ''high performing State'' is defined in section 403(a)(4) of the Act to mean a State that is most successful in achieving the purposes of the TANF program as specified in section 401(a) of the Act. These purposes are to—

(1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) Encourage the formation and maintenance of two-parent families.

Section 403(a)(4)(B) of the Act specifies that the bonus award for a fiscal year will be based on a State's performance in the previous fiscal year and may not exceed five percent of the State's family assistance grant.

Section 403(a)(4)(C) of the Act requires the Department to develop a formula for measuring State performance in consultation with the National Governors' Association and the American Public Welfare Association, now known as the American Public Human Services Association.

Section 403(a)(4)(D) of the Act requires the Secretary to use the formula developed to assign a score to each eligible State for the fiscal year preceding the bonus year and prescribe a performance threshold as the basis for awarding the bonus. Section 403(a)(4)(D) of the Act also specifies that $1 billion (or an average total of $200 million each year) will be awarded over five years, beginning in FY 1999.

C. High Performance Bonus Regulations

On December 6, 1999, we published a Notice of Proposed Rulemaking (NPRM) covering the bonus awards in FY 2002 and beyond. The NPRM proposed the measures, the formula for allocating funds, and the data sources, methodologies, and specifications for each measure. The final rule, published on August 30, 2000 (65 FR 52814), provided that we would base the bonuses in FY 2002 and beyond on four work measures; a measure on family formation and stability; and three measures that support work and self-sufficiency, i.e., participation by low-income working families in the Food Stamp Program, participation in the Medicaid and State Children's Health Insurance Program (SCHIP), and a child care measure. The methodologies and specification for all of the measures, except for the child care measure, were completely specified in the final rule.

Although it had not been proposed in the NPRM, we added the child care measure in the final rule since we strongly agreed with commenters that child care subsidies or assistance represent an essential support for low-income families and are a critical part of a successful welfare reform program. We stated in the preamble to the final rule that we planned to engage States and others, particularly data experts, in discussions regarding the technicalities of implementing key elements of the child care measure. While there were many comments in support of a child care measure, there was no opportunity for detailed consultation or public comment on the technical aspects of the new measure, as it had not been included in the NPRM.

We particularly wanted to obtain the States' views on, and information about, issues for which we lacked specific knowledge, such as State data systems. We stated that we planned to hold these consultations and issue details regarding the components of this measure by the end of the calendar year.

II. The Child Care Measure

A. Summary of the Child Care Measure in the Final Rule

The final rule provided that $10 million would be allocated annually for bonus awards under the child care measure. The specific provisions of the measure appear at § 270.4(e) of the final rule. *See* regulatory text at the end of this document.

Briefly, the measure includes three components:

- Child care accessibility, as measured by the percent of children, eligible under the Child Care and Development Fund (CCDF) requirements, who are receiving services, including eligible children served with additional funds;
- Child care affordability, based on a comparison of reported assessed family co-payment to reported family income; and
- Child care quality, as indicated by a comparison of the actual amounts paid for children receiving CCDF subsidies to local market rates in the State.

We will base the bonus awards for FY 2002 on a composite ranking of State scores on accessibility and affordability. We will base the bonus awards for FY 2003 on a composite ranking of accessibility, affordability, and quality. The weights of the various components in computing the composite score are specified in § 270.4(e).

No new data collection is required in order to compete on the two components of the child care measure in FY 2002. We will use existing CCDF data and Census Bureau data as the data source for family incomes at 85 percent of the State's median income, i.e., the Federal eligibility limit in the CCDF program. We will also calculate the

percentage of potentially-eligible children served by dividing the number of children served with ''pooled'' funds, that is, CCDF funds (including transfers from TANF) and any other funds States use to serve eligible children, by the number of children eligible under the Federal criteria.

For bonus awards FY 2003 and beyond, we will base the quality component on the actual rates States pay for children receiving CCDF subsidies, as reported on the ACF–801, as compared to State data on actual market rates.

B. Consultations With States and Other Organizations

In determining the specifications for the affordability component, we were aware that States have tremendous flexibility in setting sliding fee scales under the regulations governing the CCDF program which they use to balance different needs and make child care affordable for families at a range of incomes. How to fairly score and rank States in light of the diversity in State practice was one of the major issues on which we sought further advice.

The market rate survey and the data collected as a part of the survey were also issues on which we sought advice. The CCDF statute requires States to conduct a market rate survey periodically as a way of monitoring their program, but there is no consistency in how States conduct these surveys, and we have not required States to submit their surveys or the survey results to ACF. In the preamble to the final rule, we stated that we would consult with States and other experts on the market rate data States would need to submit in order to compete on this measure, the process for submitting the data, and the methodology we would use for ranking States on this component.

Beginning in October, 2000, we contacted all States and approximately 30 advocacy organizations, including agencies and organizations that had commented on this issue in the NPRM, inviting them to consult with us on issues related to the child care measure.

At the first consultation meeting, we asked for individuals to participate in intensive discussions over the next two months.

We established two child care workgroups—one for State agency staff and the other for representatives of advocacy and other agencies and organizations.

The State workgroups, made up of approximately 20 State representatives, met on five occasions by conference call. We faxed information to the workgroup members for review prior to each conference call and had extensive follow-up discussions. The advocate workgroup, made up of representatives of approximately 10 organizations, met twice in two months by similar conference calls. In addition, the Child Care Bureau in ACF requested input from all States through the regional offices of ACF and in public presentations to State representatives.

The consultations focused on the following major issues:

Accessibility

- Were the data readily available?
- What did States need to know to ''pool'' data properly?

Affordability

- What was the effect of using the State's Median Income as a standard for this component?
- Did it matter how States define ''income''?
- What income levels, if any, should be used in this component?
- How should we address family size in the calculations?

Quality

- How reliable are the data collected by the States in their market rate surveys?
- What types of child care should be compared?
- How could this component account for States with large rural populations as compared to States with large urban centers?

C. Changes Made in this Interim Final Rule

As a result of our consultations, we are amending the child care measure to add the following clarifications and specifications.

The Accessibility Component

In the final rule, we referenced the ACF–696 financial reporting form as the source of the information on the counting of children served by ''pooled'' funds. We are taking this opportunity to update § 270.4(e)(1)(i) to delete the reference to the ACF–696 and replace it with a reference to the recently revised ACF–800 and ACF–801. These two reporting forms are now better sources of the data on the number of children served with all sources of funds used by the State. We believe this change is not only an update for accuracy, but also will avoid confusion in the future. We are deleting the phrase ''including any such eligible children served with additional funds reported on the ACF–696 financial reporting form'' and replacing it with the words ''and who are included in the data reported on the ACF–800 and the ACF–801.''

No additional guidance or specifications are needed to implement this component. We will use data from the ACF–800 and ACF–801 to compute scores and rank States.

The Affordability Component

There is considerable variation among States in the amount of co-payments, expressed as a percent of income, that parents are asked to pay at different income levels, particularly above the poverty level. In our consultations with both States and advocate groups, we were encouraged to look at affordability for families at several different increments of income.

Therefore, we specify in § 270.4(e)(3) that we will compare family income to the assessed State co-payment for child care, based on four income ranges. These income ranges refer to percentages of the Federal Poverty Guidelines for a family of three persons. The income ranges are as follows:

- Income below the poverty level;
- Income at least 100 percent and below 125 percent of poverty;
- Income at least 125 percent and below 150 percent of poverty; and
- Income at least 150 percent and below 175 percent of poverty.

For a family of three in FY 2001,
100 percent of the Federal Poverty Guidelines is $14,150;
125 percent of the Federal Poverty Guidelines is $17,687;
150 percent of the Federal Poverty Guidelines is $21,225; and
175 percent of the Federal Poverty Guidelines is $24,762.

Although the maximum allowable income eligibility limit for child care is based on State Median Income (e.g., 85 percent of the SMI), we were encouraged in our consultations to use percent of the poverty level for this comparison between family income and assessed family co-payments. The poverty level remains constant across States, while the SMI varies from State to State.

We were also encouraged to consider family size in the measure of affordability. However, family size is not currently included in the data reported by States on the ACF 800 or 801. Therefore, we have chosen not to require this information at this time because it would result in additional data collection and reporting burden.

We have selected these income ranges that refer to percentages of poverty for a family of three for comparison of assessed co-payments across States because existing State data indicate that the majority of families are receiving

care for only one or two children. While some States establish their income eligibility limits below 175 percent of the Federal Poverty Guidelines, all States are serving some larger households with incomes up to $25,000, which equals approximately 175 percent of the Federal Poverty Guidelines for a family of three. However, we are limited in our ability to measure and compare co-payments across States for families with income levels beyond $25,000 because some States are serving few families beyond this point.

Limiting our measure of average co-payments to families earning up to $25,000 could potentially disadvantage States that choose to serve families with higher incomes. We know that some States make use of modest co-payments across a broad range of income in order to extend eligibility higher up the income scale. Families above the State's income guidelines would not be eligible to be served at all and would, therefore, pay 100 percent of the cost of care.

States serving households above $25,000 could have lower than average co-payments across the range of incomes that they serve, but this would not be captured in the measure that examines co-payments only up to $25,000. For example, State A has established an income eligibility limit of $24,000 for a family of three. State B has established an income limit of $28,000 for a family of the same size, and a co-payment rate of 11 percent of family income. Although a family with an annual income below $24,000 might face higher co-payments in State B than in State A, a family with income above $24,000 would be ineligible in State A. A family in State A with an annual income of $26,000 would pay 100 percent of the cost of care, which would likely be 20 percent or more of annual income. A family with the same income in State B would have an assessed co-payment rate of only 11 percent.

In order to address this diversity, our methodology also addresses State effort to provide access to affordable co-payments to a broader range of families. As a part of the affordability component, we will also rank States based on the ratio of the number of children eligible under the State-defined income limits, as specified in the State CCDF Plan, compared to the number of children eligible under the Federal eligibility limit for the CCDF (85% of State's median income (SMI)).

In § 270.4(e)(4), we clarify how we will compute the scores and rank the States on this component. We specify that, for each State competing on this measure, we will calculate, for each of the four income ranges, the average of the ratios of family co-payment to family income for each individual family. Next, we will calculate a fifth ratio of the number of children eligible under the State's defined income limits compared to the number of children eligible under the Federal eligibility limits in the CCDF, i.e., 85 percent of the State's median income. Finally, we will rank each State based on each of the five ratios and will combine the five rankings for each State to obtain the State's score on this component.

The Quality Component

We specify in § 270.4(e)(5) that we will compare the actual rates paid by the State as reported on the ACF–801 (not the published maximum rates) to the market rates applicable to the performance year. In order to have the data to make this comparison, we are requiring that, if a State wishes to compete on this measure, it must submit two specific items of information from its market rate survey. The two items are:

- Age-specific rates for children 0–13 years of age as reported by the child care centers and family day care homes responding to the State's market rate survey; and
- the provider's county or, if the State uses multi-county regions to measure market rates or set maximum payment rates, the administrative region.

We have selected the parameters of age of child, type of provider, and location of provider, because the rates charged by providers (that is market rates) vary substantially based on these factors. States must take these factors into account when setting payment rates that assure equal access to the full range of provider types for children from 0–13 years of age.

In § 270.4(e)(6), we specify how we will compute the scores and rank States on this component. We will compute the percentile of the market represented by the amount paid for each child as reported on the ACF–801 by comparing the actual payment for each child to the array of reported market rates for children of the same age in the relevant county or administrative region. (Payments for children in center-based care will be compared to reported center care rates; payments for children in non-center-based care, i.e., family day care and unlicensed child care, will be compared to reported family child care provider rates.)

Finally, we will take the percentile that results from the per-child comparison of the actual payment to the reported market rates and compute separate State-wide averages for center-based and non-center-based care. Each State will be ranked on each of the two averages. The two rankings will be combined to obtain the State's final score on this component.

III. Justification for This Interim Final Rule

The time frames for implementing and operationalizing the high performance bonus award system are extremely short. It became clear, even as we published the final high performance bonus rule in August, 2000, that States would need immediate and additional guidance, clarification, and specificity about our expectations in order to make program decisions, collect data, and prepare themselves to compete successfully for child care bonuses in FY 2002 and FY 2003. However, it was equally clear that in order to arrive at a reliable and workable measurement system, it was necessary to consult extensively with the National Governors' Association (NGA), the American Public Human Services Association (APHSA), States, and others, which we did through early December. The provisions of this interim final rule reflect the information and recommendations we received in these consultations.

We have determined that publication of an NPRM is unnecessary, impractical, and not in the public interest. We believe it is in the public interest to have the maximum possible number of States compete for bonuses under the TANF program and that they be able to structure their programs to successfully compete on each of the bonus measures. Without the additional information contained in this interim final rule, States will not know how they will be ranked on the child care affordability measure in FY 2002. The performance year for FY 2002 is FY 2001, the current fiscal year. Unless States are given this information in a timely way, they will be unable to have an opportunity to make program changes or take other actions in this fiscal year to prepare themselves to compete on this measure. There is insufficient time to issue both an NPRM and a final rule and still provide States with enough advance notice to be able to make changes in time to have them be operational during the performance year.

Moreover, unless this information is issued as a final rule, States will not know what information they must collect as a part of their child care market rate surveys in order to compete successfully in FY 2003. States are only required to conduct these surveys every two years. Since some States are conducting their market rate surveys in

FY 2001, it is crucial to advise them quickly about what types of data they would need to collect in order that they can design and conduct their FY 2001 surveys in a way that will enable them to compete for the child care bonus in FY 2003.

Finally, we believe issuance of an NPRM is unnecessary because we have consulted with the States and others who commented on the earlier NPRM about the issues covered by this interim final rule and received their input. We have incorporated their concerns in this interim final rule.

In spite of the need to advise States immediately, we are sensitive to the issue of public notice and comment. For that reason we invite comment on these proposals for the next 60 days.

IV. Regulatory Impact Analyses

A. Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this interim final rule is consistent with these priorities and principles.

The Executive Order encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described earlier, ACF consulted with States, their representative organizations, and a broad range of advocacy groups, researchers, and others to obtain their views. This rule reflects the discussions with, and the concerns of, the groups with whom we consulted.

This interim final rule will not have an effect on the economy of $100 million or more in any one year, according to section 3(F)(1) of the Executive Order. We believe the cost of competing for a high performance bonus award in FY 2002 should be minimal since competition for these awards will be based, to the extent possible, on existing data sources. This interim final rule was determined to be significant and has been reviewed by the Office of Management and Budget.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the Act to include small businesses, small non-profit organizations, and small governmental entities. This rule will affect only the 50 States, the District of Columbia, and certain Territories. Therefore, the Secretary certifies that this rule will not have a significant impact on small entities.

C. Assessment of the Impact on Family Well-Being

We certify that we have made an assessment of this rule's impact on the well-being of families, as required under section 654 of The Treasury and General Appropriations Act of 1999. The high performance bonus awards are a statutory part of the TANF program and are designed to reward State efforts in strengthening the economic and social stability of families and carrying out other purposes in the statute. This interim final rule does not limit State flexibility to design programs to serve these purposes.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), no persons are required to respond to a collection of information unless it displays a valid OMB control number. As required by the PRA, we will submit the data collection requirements to OMB for review and approval.

In FY 2002, no additional reporting burden will be required of the States in competing on the child care measure since we will rank States based on data they currently report under the CCDF program (ACF Forms 800 and 801).

However, there will be a reporting burden for the information States must submit if they wish to compete on the child care measure in FY 2003. States must provide the following information based on the child care market rate surveys that they currently conduct every two years:

- All age-specific rates for children 0–13 years of age reported by the child day care centers and family day care homes responding to the State's market rate survey; and
- The provider's county or, if the State uses multi-county regions to measure market rates or set maximum payment rates, the administrative region.

We estimate the reporting burden for reporting these data once every two years to be 40 hours per respondent times 54 respondents, or 2,160 hours. Annualized, this equals a total burden of 1,080 hours as shown below:

Instrument or requirement	Number of respondents	Annual number of responses per respondent	Average burden hours per response	Total annual burden hours
Abstract of Market Rate Survey	54	0.5	40	1,080
Estimated Total Annual Burden Hours	.....	.....	.....	1,080

We will submit this information to OMB for approval. These requirements will not become effective until approved by OMB.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governmental entity that may be significantly or uniquely impacted by the proposed rule.

We have determined that this interim final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Competition for a high performance bonus is entirely at State option. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted State or small government.

F. Congressional Review

This interim final rule is not a major rule as defined in 5 U.S.C., Chapter 8.

G. Executive Order 13132

On August 4, 1999, the President issued Executive Order 13132, ''federalism.'' The purposes of the Order are: ''to guarantee the division of governmental responsibilities between the national government and the States that was intended by the Framers of the Constitution, to ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies, and to further the policies of the Unfunded Mandates Reform Act.* * *''

We certify that this final rule does not have a substantial direct effect on 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. The final rule does not pre-empt State law and does not impose unfunded mandates.

This rule does not contain regulatory policies with federalism implications that would require specific consultations with State or local elected officials. The statute, however, requires consultations with the National Governors' Association and the American Public Human Services Association in the development of a high performance bonus system. Prior to the development of the NPRM and this interim final rule, we consulted with representatives of these organizations, State representatives and a broad range of nonprofit, advocacy, and community organizations; foundations; and others.

List of Subjects in 45 CFR Part 270

Grant programs—social programs; Poverty; Public assistance programs; Reporting and recordkeeping requirements.

Catalogue of Federal Domestic Assistance Programs: No. 93.558 Temporary Assistance for Needy Families (TANF) Program; State Family Assistance Grants; Tribal Family Assistance Grants; Assistance Grants to Territories; Matching Grants to Territories; Supplemental Grants for Population Increases; Contingency Fund; High Performance Bonus; Decrease in Illegitimacy Bonus)

Dated: March 14, 2001.

Diann Dawson,

Acting Principal Deputy Assistant Secretary, Administration for Children and Families.

Approved: April 10, 2001.

Tommy G. Thompson,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are amending 45 CFR Chapter II as follows:

PART 270—HIGH PERFORMANCE BONUS AWARDS

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 603(a)(4).

2. In § 270.4, paragraph (e) is revised to read as follows:

§ 270.4 On what measures will we base the bonus awards?

* * * * *

(e) *Child care subsidy measure.* (1) Beginning in FY 2002, we will measure State performance based upon a composite ranking of:

(i) The accessibility of services based on the percentage of children in the State who meet the maximum allowable Federal eligibility requirements for the Child Care and Development Fund (CCDF) who are served by the State during the performance year, and who are included in the data reported on the ACF–800 and ACF–801 for the same fiscal year; and

(ii) The affordability of CCDF services based on a comparison of the reported assessed family co-payment to reported family income and a comparison of the number of eligible children under the State's defined income limits to the number of eligible children under the federal eligibility limits.

(2) Beginning in FY 2003, we will measure State performance based upon a composite ranking of:

(i) The two components described in paragraph (e)(1) of this section; and

(ii) The quality of CCDF services based on a comparison of reimbursement rates during the performance year to the market rates, determined in accordance with 45 CFR 98.43(b)(2), applicable to that year.

(3) For the affordability component in paragraph (e)(1)(ii) of this section, we will compare family income to the assessed State family co-payment as reported on the ACF–801 across four income ranges. These income ranges refer to percentages of the Federal Poverty Guidelines for a family of three persons. The income ranges are as follows:

(i) Income below the poverty level;

(ii) Income at least 100 percent and below 125 percent of poverty;

(iii) Income at least 125 percent and below 150 percent of poverty; and

(iv) Income at least 150 percent and below 175 percent of poverty.

(4)(i) For the affordability component, we will calculate, for each income range, the average of the ratios of family co-payment to family income for each family served; and

(ii) We will calculate a ratio of the number of children eligible under the State's defined income limits compared to the number of children eligible under the Federal eligibility limits in the CCDF, i.e., 85 percent of the State's median income.

(iii) We will rank each State based on each of the four averages calculated in paragraph (e)(4)(i) of this section and the ratio calculated in paragraph (e)(4)(ii) of this section and combine the ranks to obtain the State's score on this component.

(5) For the quality component specified in paragraph (e)(2)(ii) of this section, in FY 2003 and beyond, we will compare the actual rates paid by the State as reported on the ACF–801 (not the published maximum rates) to the market rates applicable to the performance year, i.e., FY 2002. Each State competing on this measure must submit the following data as a part of its market rate survey:

(i) Age-specific rates for children 0–13 years of age reported by the child care centers and family day care homes responding to the State's market rate survey; and

(ii) The provider's county or, if the State uses multi-county regions to measure market rates or set maximum payment rates, the administrative region.

(6) For the quality component, we will compute the percentile of the market represented by the amount paid for each child as reported on the ACF–801 by comparing the actual payment for each child to the array of reported market rates for children of the same age in the relevant county or administrative region. (We will compare payments for children in center-based care to reported center care provider rates. We will compare payments for children in non-center-based care, i.e., family day care and unlicensed child care, to reported family child care provider rates.)

(i) We will take the percentile that results from the per-child comparison of the actual payment to the reported market rates and compute separate State-wide averages for center-based and non-center-based care; and

(ii) We will rank the State according to the two State-wide averages and

combine the ranks to obtain the State's score on this component.

(7) For any given year, we will rank the States that choose to compete on the child care measure on each component of the overall measure and award bonuses to the ten States with the highest composite rankings.

(8) We will calculate each component score for this measure to two decimal points. If two or more States have the same score for a component, we will calculate the scores for these States to as many decimal points as necessary to eliminate the tie.

(9)(i) The rank of the measure for the FY 2002 bonus year will be a composite weighted score of the two components at paragraph (e)(1) of this section, with the component at paragraph (e)(1)(i) of this section having a weight of 6 and the component at paragraph (e)(1)(ii) of this section having a weight of 4.

(ii) The rank of the measure for the bonus beginning in FY 2003 will be a composite weighted score of the three components at paragraph (e)(2) of this section, with the component at paragraph (e)(1)(i) of this section having a weight of 5, the component at paragraph (e)(1)(ii) of this section having a weight of 3, and the component at paragraph (e)(2)(ii) of this section having a weight of 2.

(10) We will award bonuses only to the top ten qualifying States that have fully obligated their CCDF Matching Funds for the fiscal year corresponding to the performance year and fully expended their CCDF Matching Funds for the fiscal year preceding the performance year.

[FR Doc. 01–11767 Filed 5–9–01; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 205

[Docket No. MARAD–2000–8284]

RIN 2133–AB42

Audit Appeals; Policy and Procedure

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is updating our regulations on Audit Appeals; Policy and Procedure. The regulations establish audit appeal procedures for parties who contract with the Maritime Subsidy Board or MARAD. This final rule uses plain language to update the audit procedures to reflect our current practices. The intended effect of this rulemaking is to improve our audit appeals process by updating and clarifying the regulations.

DATES: The effective date of this final rule is June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Lennis G. Fludd, Office of Financial and Rate Approvals, (202) 366–2324. You may send mail to Mr. Fludd at Maritime Administration, Office of Financial and Rate Approvals, Room 8117, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Part 205 establishes the policy and procedure for parties to use when seeking redress and appeals of audit decisions involving contracts with the Maritime Subsidy Board or MARAD. Part 205 applies to contracts of the Maritime Subsidy Board and MARAD which have included, for example, the Operating-Differential Subsidy, Construction-Differential Subsidy, Capital Construction Fund, Construction Reserve Fund, and Maritime Security Program.

We published a notice of proposed rulemaking (NPRM) on November 16, 2000 at 65 FR 69279. The NPRM proposed revisions to part 205 to reflect our current practices of making audit appeals decisions. This final rule essentially mirrors the NPRM to which we received no public comments. Accordingly, parties no longer appeal to the appropriate Coast Director's office. In the past, auditors were assigned to regional offices. However, we no longer have these auditors. MARAD headquarters is responsible for overseeing audits as deemed appropriate. Such audits may be performed by the Office of Inspector General. Also, as proposed, we are eliminating the discretionary hearing afforded appellants (under § 205.2 (b)) when appealing to the Maritime Administrator. This final rule includes provisions that give the appellant 90 days from the date of receipt of the initial audit findings to file an appeal with the appropriate Associate Administrator and 30 days following the Associate Administrator's final audit appeals decision to submit an appeal in writing to the Administrator. However, the Administrator may, at his or her discretion, extend the 30 days in the case of extenuating circumstances.

Plain Language

Executive Order 12866 and a Presidential memorandum on plain language in government writing of June 1, 1998, require each agency to write all rules in plain language. The Department of Transportation and MARAD are committed to plain language in government writing; therefore, we revised part 205 using plain language to provide easier understanding. Our goal is to improve the clarity of our regulations.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have reviewed this final rule under Executive Order 12866 and have determined that this is not a significant regulatory action. Additionally, this final rule is not likely to result in an annual effect on the economy of $100 million or more. The purpose of this final rule is to update MARAD's audit appeals procedures to reflect current MARAD practices and to rewrite the regulations in plain language.

This final rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The costs and benefits associated with this rulemaking are considered to be so minimal that no further analysis is necessary. Because the economic impact, if any, should be minimal, further regulatory evaluation is not necessary.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. This final rule only updates procedures for appealing audit findings and decisions to the Maritime Administrator. Although a number of small entities may appeal audit findings, the cost of filing an audit appeal with MARAD is minimal, if any. Therefore, MARAD certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with

State and local officials was not necessary.

Environmental Impact Statement

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (''MAO'') 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this final rule is not required. This final rule involves administrative and procedural regulations that have no environmental impact.

Executive Order 13175

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Unfunded Mandates Reform Act of 1995

This final rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves the objective of the rule.

Paperwork Reduction Act

This final rule does not contain information collection requirements covered by 5 CFR Part 1320 (specifically 5 CFR 1320.3(c)) in that appellants choose the information to be provided in their appeal and may choose to interpret the collection of information differently.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number is contained in the heading of this document to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 205

Administrative practice and procedure, Government contracts.

Accordingly, 46 CFR part 205 is revised to read as follows:

PART 205—AUDIT APPEALS; POLICY AND PROCEDURE

Sec.

Authority: Sec. 204, 49 Stat. 1987, 1998, 2004, 2011; 46 U.S.C. 1114, 1155, 1176, 1212.

§ 205.1 Purpose.

This part establishes the policy and procedure for parties to use when seeking redress and appeals of audit decisions involving contracts with the Maritime Subsidy Board or the Maritime Administration (MARAD, we, our, or us). A party to a contract (you or your) may appeal MARAD's findings, interpretations, or decisions of annual or special audits.

§ 205.2 Policy

If you disagree with audit findings and fail to settle any differences with the appropriate Office Director, you may ask the appropriate office Associate Administrator to review the audit findings. If you disagree with the Associate Administrator, you may appeal to the Maritime Administrator (Administrator).

§ 205.3 Procedure.

(a) You have 90 days from the date you receive the initial audit findings to file a written request for review of the audit findings with the appropriate Associate Administrator. Your written request must state the legal or factual bases for your disagreement. The appropriate Associate Administrator will issue a written determination.

(b) You have 30 days following the Associate Administrator's final audit determination to submit your appeal in writing to the Administrator. Your written appeal must set forth the legal and factual bases for your appeal. The Administrator may, at his or her discretion, extend the time limitation in the case of extenuating circumstances.

(c) We will notify you, in writing, if you must submit additional facts for our consideration of the appeal. We will notify you, in writing, once the Administrator has made a decision regarding your appeal.

§ 205.4 Finality of decisions.

The Administrator's decision will be the final administrative action on all audit appeals.

§ 205.5 Contracts containing disputes article.

When a contract contains a disputes article, the disputes article will govern the bases for negotiating disputes regarding audit findings, interpretations, or decisions made by MARAD and any appeals.

Dated: May 2, 2001.

By Order of the Acting Deputy Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–11578 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 99–25; FCC 01–100]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document amends our Low Power Radio Service (''LPFM'') regulations to implement section 632(a) of the ''Making Appropriations for the Government of the District of Columbia for FY 2001'' Act (the ''Act''). Specifically, the Second Report and Order codifies the Act's requirements that the Commission prescribe LPFM station third adjacent channel interference protection standards and prohibit the grant of an LPFM station license if the applicant has engaged in the unlicensed operation of a station in violation of section 301 of the Communications Act of 1934, as amended. This document also defines the scope of permissible minor amendments that may be filed by LPFM applicants outside window filing periods.

DATES: Effective June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Peter Doyle, Federal Communications Commission, Mass Media Bureau, Audio Services Division, 445 12 Street, SW., Washington, DC 20554 (202) 418–2700, Internet address: pdoyle@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Report and Order, adopted March 22, 2001, and released April 2, 2001. The complete text of the Second Report and

Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12 Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036. The Commission believes that these actions are exempt from the notice and comment requirements of section 553 of the Administrative Procedure Act, and that the minor amendment rule is a rule of procedure to which notice and comment requirements are inapplicable.

Synopsis of Order

1. With this Second Report and Order, the Commission implements the Act's requirement that the Commission prescribe LPFM station third adjacent channel interference protection standards. We accomplish this requirement by including in our rules minimum distance separations which LPFM applicants must meet with respect to full power FM and FM translator stations on third adjacent channels. We also, in accordance with the Act, prohibit any applicant from obtaining an LPFM station license if the applicant has engaged in the unlicensed operation of a station in violation of section 301 of the Communications Act of 1934, as amended.

2. The third adjacent channel protection standards affect 652 otherwise technically acceptable LPFM applications that were filed in the first two LPFM filing windows, rendering them short-spaced to existing full power FM and/or FM translator stations operating on third adjacent channels. Under well-established processing policies, only minor amendments may be filed outside the window period. Although the LPFM rules define the permissible scope of minor changes in authorized facilities, they do not define the scope of minor amendments to pending applications, an issue now critical to the large group of newly short-spaced applicants. The Second Report and Order adds new rule § 73.871 to permit LP100 applicants to file minor change technical amendments for site relocations of less than two kilometers and to permit LP10 applicants to file minor change technical amendments for site relocations of less than one kilometer. Section 73.871 will permit the filing after the close of the pertinent filing window of non-technical minor amendments that do not improve an applicant's comparative position. Amendments adversely affecting an applicant's comparative position will be accepted and considered as part of the mutually exclusive application selection procedures. Ownership amendments will be limited to changes where the original parties to an application retain more than a fifty percent ownership interest in the application as originally filed.

3. Applications impacted by the new third adjacent channel spacing requirements are listed in Appendices A and B of the Second Report and Order. Appendix A lists those applications which involve short spacings of less than two kilometers. These applicants may be able to file minor amendments to eliminate the prohibited short spacings. The staff is prepared to assist, if requested, each of these applicants to determine whether a feasible site exists which would meet both the Commission's distance separation requirements and the applicant's service needs. Curative minor amendments (site relocations of less than two kilometers) must be filed within thirty days of the publication of this Summary in the **Federal Register**. Appendix B lists those applications that have third adjacent short spacings of two or more kilometers. These cannot be cured by permissible minor amendments filed outside an LPFM window. The Commission therefore directs the staff to open an additional remedial filing window following the completion of the currently scheduled window process for those applicants listed in Appendices A and B. We will retain these applications in pending status. The remedial filing window will provide these applications with the opportunity to submit major amendments specifying technical facilities that meet the new spacing requirements.

4. Appendix C of the Second Report and Order lists those LPFM applications that stated that either the applicant and/or any party to the application engaged in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934, as amended. Prior to the Second Report and Order, the Commission's rules permitted the grant of an LPFM station application if the party engaged in illegal broadcast operations but certified that it ceased such unlicensed operations within 24 hours of a Commission directive to do so or, in the alternative, that it voluntarily ceased engaging in such operations if no directive was issued no later than February 26, 1999. The Second Report and Order modifies § 73.854 of the LPFM rules and instructs the staff to modify FCC Form 318 to conform the statutory language prohibiting any applicant from obtaining an LPFM license if the applicant engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934, as amended. All applications responding ''No'' to FCC Form 318, Section III, Question 8(a) will be dismissed.

5. The Commission does not believe that the notice and comment requirements of section 553 of the Administrative Procedure Act (''APA'') apply to the rule revisions adopted herein. We find that the amendments of the interference protection and unlicensed operations rules are exempt from notice and comment under the APA's ''good cause'' exemption. The third adjacent channel protection requirements adopted were proposed in the LPFM NPRM, are consistent with current full power FM station third adjacent channel protection levels, and implement a Congressional requirement. Amendment of the unlicensed operation rule is a non-discretionary action codifying a Congressional requirement. The minor amendment rule is one of procedure to which notice and comment requirements are inapplicable.

Supplemental Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') [1] requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings. In the Notice of Proposed Rulemaking, Report and Order, and Memorandum Opinion and Order, the Commission included, respectively, an Initial Regulatory Flexibility Analysis, Final Regulatory Flexibility Analysis, and Supplemental Final Regulatory Flexibility Analysis. *Creation of Low Power Radio Service,* MM Docket No. 99–25, *Notice of Proposed Rule Making,* 64 FR 7577 (February 16, 1999), 14 FCC Rcd 2471 (1999); *Report and Order,* 65 FR 7616 (February 15, 2000), 15 FCC Rcd 2205 (2000); *Memorandum Opinion and Order,* 65 FR 67289 (November 9, 2000), __ FCC Rcd __ (2000). In this Order, however, the rule changes adopted on our own motion in response to the Act's mandate do not require a regulatory flexibility analysis.

Minimizing Impact on Small Business LPFM Applicants

LP100 and LP10 stations will be noncommercial, educational stations, and so will not compete with small

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601, has been amended by the Contract with America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

business commercial broadcasters for advertising revenue.

Need For and Objectives of the Memorandum Opinion and Order

In the Report and Order, the Commission established technical standards based on minimum distance requirements to co-channel, first and second-adjacent channel, and IF channel spacings to full power FM and FM translator stations, and co-channel and first adjacent channel spacings to other LPFM stations. The Report and Order also provided to a limited extent that applicants previously engaging in unlicensed operations in violation of section 301 of the Communications Act of 1934, as amended, would be able to receive grant of their applications. The Act modifies the Commission's prior approach, requiring that the LPFM rules be expanded to provide protection to third adjacent channel full power FM and FM translator stations and that the rules be modified to reject any relief to applicants previously in violation of the unlicensed station provisions of section 301 of the Communications Act.

Significant Alternative Considered

The Commission considered an alternative to its rule governing the amendment of pending LPFM applications that such applicants be permitted to amend their technical proposals to specify a different channel that might resolve conflicts with co and first adjacent channel LPFM new station applications filed in the same filing window. This alternative was rejected in the interest of administrative orderliness. The expeditious processing of the hundreds of applications filed in the initial LPFM windows requires a relatively fixed database of technical proposals. Providing the opportunity to amend to different channels after the close of a window makes staff determinations of mutual exclusivity and the administration of the selection procedure for these applications inherently subject to duplicative reevaluations.

Report to Congress

The Commission will send a copy of the Second Report and Order to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Second Report and Order, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Second Order and Order (or summary thereof) will also be published in the **Federal Register** pursuant to 5 U.S.C. 604(b).

List of Subjects in 47 CFR Parts 73

Radio broadcasting.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

Regulatory Text

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336.

2. Section 73.807 is amended by revising the last sentence in the introductory text as set forth and by revising the fourth column headings of the tables in paragraphs (a), (b), (c), and (d) which previously read ''Second-adjacent channel minimum separation (km) required'' to read ''Second- and third-adjacent channel minimum separation (km) required.''

§ 73.807 Minimum distance separation between stations.

* * * For second- and third-adjacent channels and IF channels, the required minimum distance separation is sufficient to avoid interference received from other stations.

* * * * *

3. Section 73.854 is revised to read as follows:

§ 73.854 Unlicensed operations.

No application for an LPFM station may be granted unless the applicant certifies, under penalty of perjury, that neither the applicant, nor any party to the application, has engaged in any manner including individually or with persons, groups, organizations or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301.

4. Add § 73.871 to subpart G to read as follows:

§ 73.871 Amendment of LPFM broadcast station applications.

(a) New and major change applications may be amended without limitation during the pertinent filing window.

(b) Amendments that would improve the comparative position of new and major change applications will not be accepted after the close of the pertinent filing window.

(c) Only minor amendments to new and major change applications will be accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Site relocations of less than one kilometer for LP10 stations;

(2) Site relocations of less than two kilometers for LP100 stations;

(3) Changes in ownership where the original party or parties to an application retain more than a 50 percent ownership interest in the application as originally filed; and

(4) Other changes in general and/or legal information.

(d) Unauthorized or untimely amendments are subject to return by the FCC's staff without consideration.

[FR Doc. 01–11763 Filed 5–9–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 91
Thursday, May 10, 2001

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

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 951

[No. 2001–08]

RIN 3069–AB04

Affordable Housing Program Amendments

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the operation of the Affordable Housing Program (AHP) to improve the operation and effectiveness of the AHP. The proposed changes include: increasing the maximum amount of money that may be set aside annually, in the aggregate, under a Federal Home Loan Bank's (Bank) homeownership set-aside programs to the greater of $3.0 million or 25 percent of the Bank's annual required AHP contribution; removing one of the criteria for use of homeownership set-aside funds to pay for counseling costs in order to equalize the criteria with that of the competitive AHP application program; permitting members drawn from community and not-for-profit organizations actively involved in providing or promoting community lending in a Bank's District to serve on the Bank's Advisory Council; making the reconciliation of AHP fund requirements applicable to any reduction or increase in the amount of AHP subsidy approved for a project, regardless of whether a direct subsidy writedown is involved; removing the requirement for annual project sponsor certifications on household income eligibility for owner-occupied projects; and removing the requirement for member certifications on habitability and tenant income and rent targeting commitments within the first year of completion of a rental project.

DATES: The Finance Board will accept written comments on the proposed rule that are received on or before June 11, 2001.

ADDRESSES: Send written comments to: Elaine L. Baker, Secretary to the Board, at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Deputy Director, (202) 408–2537, Melissa L. Allen, Program Analyst, (202) 408–2524, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a program to subsidize the interest rate on advances to members of the Bank System engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. *See* 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the AHP. *See id.* The Finance Board's existing regulation governing the operation of the AHP, which made comprehensive revisions to the AHP, was adopted in August 1997 and became effective January 1, 1998. *See* 62 FR 41812 (Aug. 4, 1997) (*now codified at* 12 CFR part 951).

Various amendments have been made to the AHP regulation since 1998 in order to clarify AHP requirements and improve the operation and effectiveness of the AHP. The Banks and Finance Board staff have, over the course of implementation of the AHP, identified additional amendments that it is believed would improve the operation and effectiveness of the AHP. The proposed amendments are discussed further below. The Finance Board welcomes written comments on all aspects of the proposed rule.

II. Analysis of Proposed Rule

A. Homeownership Set-Aside Programs—§§ 951.3(a), 951.5(a)(7)(iii)

1. Increase in Maximum Allowable Annual Homeownership Set-Aside Amount—§ 951.3(a)

Section 951.3(a)(1) of the existing AHP regulation provides that each Bank, after consultation with its Advisory Council, may set aside annually, in the aggregate, up to the greater of $1.5 million or 15 percent of its annual required AHP contribution to provide funds to members participating in the Bank's homeownership set-aside programs. 12 CFR 951.3(a)(1). In cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, a Bank may allocate up to the greater of $1.5 million or 15 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs. *Id.*

The AHP homeownership set-aside programs have proven to be an efficient and effective means for the Banks and their members to provide homeownership opportunities for low- and moderate-income households, consistent with the goals of the Bank System and the AHP. Ten Banks currently offer homeownership set-aside programs, eight of which set aside the maximum amount allowable under the current AHP regulation.

Experience with the homeownership set-aside programs over the past two years has shown that the demand for homeownership set-aside funds for low- and moderate-income families is such that an increase in the maximum allowable annual homeownership set-aside amount is warranted. The Banks have demonstrated that there is market demand and member demand for financing for low- and moderate-income homeownership, with most homeownership set-aside programs being oversubscribed within the first three to seven months of the year. In 2000, the Finance Board approved a waiver request from one Bank to increase its maximum allowable homeownership set-aside amount to 25 percent of its total annual AHP contribution, a similar waiver request for 2001 is pending, and additional waiver requests of a similar nature from other Banks are anticipated.

The homeownership set-aside programs also are consistent with the cooperative structure of the Bank System, by involving members in financing the mortgages of low- and moderate-income households receiving downpayment assistance with homeownership set-aside funds. The homeownership set-aside programs can provide an important Bank service for members by enabling a greater number of members to become involved in the AHP, by helping members to establish banking relationships with new customers, and by exposing more members to opportunities to help meet low- and moderate-income housing needs in their markets.

The homeownership set-aside programs also are consistent with the goals of the Bank System and the AHP to help finance affordable housing in underserved areas and for underserved households. Homeownership set-aside funds often are the only way to effectively meet scattered-site, affordable housing needs in rural areas or tribal areas, which have difficulty scoring well under the competitive AHP application program and where rental projects are not feasible. In addition, homeownership set-aside funds often are the only way to meet the need for homeownership opportunities for very low-income families, which require larger per-unit subsidies and, therefore, may not score well under the competitive AHP application program. Homeownership set-aside programs also allow a member to use AHP funds to finance housing for individual eligible households on an as-needed basis, even if it is only for one household in the member's market area. These are households that the competitive AHP application program might not otherwise reach.

The decision whether or not to establish homeownership set-aside programs is within the discretion of each Bank. Thus, a Bank, in consultation with its Advisory Council, may decide not to establish homeownership set-aside programs if it determines that such programs are inappropriate for its district, or, if a Bank decides to establish such programs, it need not allocate to the programs the maximum amount allowable under the regulation.

Accordingly, for the reasons discussed above, the proposed rule would revise § 951.3(a)(1) to allow a Bank, after consultation with its Advisory Council, to set aside annually, in the aggregate, up to the greater of $3.0 million or 25 percent of its annual required AHP contribution for its homeownership set-aside programs. In addition, in cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, the proposed rule would allow a Bank to allocate up to the greater of $3.0 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs.

A higher allowable annual homeownership set-aside amount increases the possibility that demand for such funds may not exhaust the available funds by the end of the year. Under section 10(j)(7) of the Bank Act, 90 percent of such uncommitted or unused AHP funds generally would be required to be deposited by the Bank in an Affordable Housing Reserve Fund established and administered by the Finance Board. *See* 12 U.S.C. 1430(j)(7); 12 CFR 951.15(a). No such Reserve Fund has been established to date. In order to minimize the possibility of having to create such a Reserve Fund, the proposed rule would provide in § 951.3(a) that any homeownership set-aside funds that are not committed or used by the end of the year in which they were set aside shall be committed or used by the end of such year to fund project modifications or the next highest scoring AHP applications in the Bank's final funding period of the year for its competitive AHP application program.

The proposed rule also would provide that, beginning in 2002 and for subsequent years, the maximum homeownership set-aside dollar limits shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board would be required to publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limits on the maximum set-aside dollar amount.

2. Removal of Criterion For Funding of Counseling Costs—§ 951.5(a)(7)(iii)

Section 951.5(a)(7) of the existing AHP regulation provides that homeownership set-aside funds may be used to pay for counseling costs only where:

(i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit;

(ii) The cost of the counseling has not been covered by another funding source, including the member; and

(iii) The homeownership set-aside funds are used to pay only for the amount of such reasonable and customary costs that exceeds the highest amount the member has spent annually on homebuyer counseling costs within the preceding three years. 12 CFR 951.5(a)(7).

By contrast, § 951.5(b)(5) of the existing AHP regulation requires satisfaction of only the first two of the above three criteria in authorizing the use of AHP subsidies to pay for counseling costs under the competitive AHP application program. 12 CFR 951.5(b)(5). The Banks maintain that the criterion in paragraph (a)(7)(iii) above should be removed so that the criteria applicable to the use of AHP funds for counseling costs are the same under both the homeownership set-aside and competitive AHP application programs.

The criterion in paragraph (a)(7)(iii) was intended to prevent homeownership set-aside funds from being used to pay for counseling costs that, in the absence of such funds, customarily would be funded by members participating in a homeownership set-aside program. In this way, AHP funds would be used to expand the pool of resources available to pay for counseling costs, rather than simply replace existing sources of funding for counseling costs.

The Banks maintain that this requirement is difficult and costly to enforce. Moreover, the requirement may actually reduce potential participation by members in homeownership set-aside programs because of members' concerns about liability if the accounting for costs is not accurate. In addition, since the competitive AHP application program does not have a comparable requirement, it is possible that AHP subsidies are already being used under that program to pay for counseling costs that the member, sponsor or another funding source would otherwise have funded.

The Finance Board recognizes that homebuyer counseling is vital to ensuring that AHP subsidies are used successfully to provide homeownership opportunities for low- and moderate-income households. The Finance Board is persuaded that assurance that homebuyers will get such counseling, regardless of how it is funded, outweighs concerns that AHP subsidies may be funding counseling costs that would otherwise be paid for by another funding source. Accordingly, for the reasons discussed above, the proposed rule would remove the additional homeownership set-aside counseling criterion contained in § 951.5(a)(7)(iii).

B. Advisory Council Membership—§ 951.4

Section 951.4(f) of the existing AHP regulation uses two terms—''community investment'' and ''community development''—in describing the role of the Advisory Councils in this area. Specifically, § 951.4(f)(1) provides that representatives of the board of directors of each Bank shall meet with the Advisory Council at least quarterly to obtain the Advisory Council's advice on ways in which the Bank can better carry out its housing finance and community investment mission, including advice on the low- and moderate-income housing and community investment programs and needs in the Bank's District. Section 951.4(f)(3) provides that each Advisory Council shall submit to the Finance Board annually by March 1 its analysis of the low- and moderate-income housing and community development activity of the Bank by which it is appointed.

The proposed rule would replace the terms community investment and community development, wherever they appear, with the term community lending, which encompasses both terms and is the term used in the Finance Board's recently adopted mission statement for the Banks. *See* 12 CFR 940.2.[1] Community lending is defined in part 900 of the Finance Board's existing regulations as ''providing financing for economic development projects for targeted beneficiaries, and, for community financial institutions, purchasing or funding small business loans, small farm loans or small agri-business loans, as defined in § 950.1 of this chapter.'' 12 CFR 900.1.

In addition, since the Advisory Councils are required to give advice on community lending, as well as housing finance, matters, the proposed rule would revise § 951.4(a) to provide that members may be drawn from community and not-for-profit organizations actively involved in providing or promoting community lending in the Bank's District, and would revise § 951.4(b) to provide that, in appointing Advisory Council members, a Bank may give consideration to the diversity of community lending needs and activities within the Bank's District.

[1] Section 940.2 states that ''[t]he mission of the Banks is to provide to their members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates' financing of:

(a) Housing, including single-family and multi-family housing serving consumers at all income levels; and

(b) *Community lending.*''

12 CFR 940.2 (emphasis added).

C. Reconciliation of AHP Fund—§ 951.8(c)(3)(ii)

Section 951.8(c)(3)(ii) of the existing AHP regulation provides that if a Bank reduces the amount of AHP subsidy approved for a project, the amount of such reduction shall be returned to the Bank's AHP fund. 12 CFR 951.8(c)(3)(ii). Section 951.8(c)(3)(ii) further provides that if a Bank increases the amount of AHP subsidy approved for a project, the amount of such increase shall be drawn first from any currently uncommitted or repaid AHP subsidies and then from the Bank's required AHP contribution for the next year. *Id.* This section is included under the overall heading for paragraph (c)(3), which addresses changes in the approved AHP subsidy amount where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan. Therefore, the requirements in paragraph (c)(3)(ii) would appear to apply only in cases where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan.

In practice, the Banks have returned to the AHP fund the amount of any reduction in AHP subsidy approved for a project under the competitive AHP application program, regardless of the reason for the reduction, such as a project modification or a change in a project's sources and uses of funds. The question has arisen whether the provision in paragraph (c)(3)(ii) regarding the funding of a subsidy increase should apply to an increase in approved AHP subsidy for a project modification that does not involve a direct subsidy writedown. A Bank has indicated that, in its district, demand for increases in approved AHP subsidies for project modifications not involving direct subsidy writedowns is now exceeding the amount of repaid or de-committed AHP subsidies available to fund such modifications. Therefore, the Bank would like to be able to fund such subsidy increases from the Bank's required AHP contribution for the next year.

If a Bank is permitted to use uncommitted AHP funds from the following year, before such funds are made available under the competitive AHP application program for that year, there will be fewer AHP funds available for new projects to be approved under the competitive AHP application program for that year. However, the overall effect on the amount of AHP funds available for the following year is not likely to be significant. Moreover, funding a new project in the next year, as opposed to funding a modification of an existing project from a prior year, would not necessarily result in producing more affordable housing, as there is no assurance that the new project ultimately will go forward. It is important that AHP funding be made available for modifications of existing projects that are meeting the goals of the AHP. The ability of an approved project to continue arguably should not be jeopardized simply because uncommitted AHP funds are not available for modifications in the current year. Since the existing AHP regulation already allows the Banks to commit funds from the following year's homeownership set-aside allocation to fund current year needs under the Banks' homeownership set-aside programs, the Banks arguably should have similar flexibility in funding subsidy increases for project modifications approved under the competitive AHP application program. Finally, the decision whether to approve an increase in AHP subsidy for a project modification is within the discretion of each Bank. *See* 12 CFR 951.7. If a Bank does not want to fund project modifications with subsidies from the next year's AHP allocation, it does not have to approve the project modifications.

Accordingly, for the reasons discussed above, the proposed rule would make § 951.8(c)(3)(ii) applicable to any reduction or increase in the amount of AHP subsidy approved for a project, regardless of whether a direct subsidy writedown is involved, by redesignating this paragraph as § 951.8(c)(4). The Banks, therefore, would be able to fund subsidy increases for project modifications using subsidies drawn first from any currently uncommitted or repaid AHP subsidies, and then from the Bank's required AHP contribution for the next year.

D. Initial Monitoring Requirements—§ 951.10

1. Owner-Occupied Project Sponsor Annual Certifications—§ 951.10(a)(1)(ii)

Section 951.10(a)(1)(ii) of the existing AHP regulation provides that where AHP subsidies are used to finance the purchase of owner-occupied units, the project sponsor must certify annually to the member and the Bank, until all approved AHP subsidies are provided to eligible households in the project, that those households receiving AHP subsidies during the year were eligible households, and such certifications shall be supported by household income verification documentation maintained by the project sponsor and available for

review by the member or the Bank. 12 CFR 951.10(a)(1)(ii).

The Banks maintain that this project sponsor certification requirement is not necessary because the certification merely reiterates more extensive documentation of income eligibility previously provided by the project sponsor to the Bank and member at the time of each request for disbursement of AHP funds from the Bank. Under the existing AHP regulation, a Bank is required to verify prior to each disbursement of AHP subsidies for an approved project that the project meets the eligibility requirements of § 951.5(b) and all obligations committed to in the approved AHP application. *See* 12 CFR 951.5(b), 951.8(c)(2). Because the project sponsor's annual certification is based on the information provided to the Bank at the time of disbursement requests, the certification requirement in § 951.10(a)(1)(ii) does not add any new information or independent verification to the monitoring process.

Accordingly, for the reasons discussed above, the proposed rule would remove the project sponsor certification requirement from § 951.10(a)(1)(ii).

Section 951.10(b)(1)(ii) of the existing AHP regulation also requires the member, within one year after disbursement to a project of all approved AHP subsidies, to review the project documentation and make certifications to the Bank on the use of the AHP subsidies and the existence of deed restrictions or other legally enforceable retention agreements and mechanisms. *See* 12 CFR 951.10(b)(1)(ii). Section 951.10(c)(1) of the existing AHP regulation requires each Bank to review the documentation for a sample of projects and units to determine income-eligibility, eligible uses, reasonable and customary costs, financial feasibility and the existence of deed restrictions or other legally enforceable retention agreements or mechanisms. *See* 12 CFR 951.10(c)(1).

Therefore, in order for the member and Bank to be able to continue reviewing project documentation pursuant to these sections, the proposed rule would retain the requirement in § 951.10(a)(1)(ii) that the project sponsor maintain household income verification documentation available for review by the member or the Bank.

2. Member Certification Within the First Year of Rental Project Completion—§ 951.10(b)(2)(ii)

Section 951.10(b)(2)(ii) of the existing AHP regulation provides that within the first year after completion of an AHP-assisted rental project, the member must review the project documentation and make a certification to the Bank on project habitability, and tenant rents and income targeting commitments. *See* 12 CFR 951.10(b)(2)(ii). The Banks maintain that this member certification requirement is essentially redundant with the requirement in § 951.10(a)(2)(ii) that the owners of rental projects make a certification to the member on the same items. *See* 12 CFR 951.10(a)(2)(ii).

Since the member is essentially duplicating the certification already made by the project owner, and the project owner is also certifying to the Bank, it seems reasonable to eliminate the member certification requirement and simply retain the project owner certification to the Bank. Accordingly, the proposed rule would remove the member certification requirement of § 951.10(b)(2)(ii), as well as the references to the member contained in § 951.10(a)(2)(ii).

III. Paperwork Reduction Act

The current information collection contained in the existing AHP regulation has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 3069–0006, with an expiration date of January 31, 2003. The Finance Board has submitted to OMB for its approval an analysis of the proposed revisions to the collection of information contained in §§ 951.3(a)(1), 951.10(a)(1)(ii), and 951.10(b)(2)(ii) of the proposed rule, described more fully in part II of the **SUPPLEMENTARY INFORMATION.** The proposed increase in the maximum allowable annual homeownership set-aside amount under § 951.3(a)(1) of the proposed rule is expected to result in an increase in applications for such funds. The proposed elimination of the project sponsor and member certification requirements in §§ 951.10(a)(1)(ii) and 951.10(b)(2)(ii) of the proposed rule would reduce the information collection requirement for such parties. The Banks use the information collection in the AHP regulation to determine whether respondents satisfy statutory and regulatory requirements under the AHP. Responses are mandatory and are required to obtain or retain a benefit. See 12 U.S.C. 1426.

Likely respondents and/or record keepers are Banks, Bank members, project sponsors, and project owners. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by OMB. *See* 44 U.S.C. 3512(a).

The estimated annual reporting and recordkeeping hour burden for the AHP regulation with the proposed changes is:

a. Number of respondents—7,720
b. Total annual responses—10,749
Percentage of these responses collected electronically—0
c. Total annual hours requested—65,461
d. Current OMB inventory—64,274
e. Difference—1,187

The estimated annual reporting and recordkeeping cost burden for the AHP regulation with the proposed changes is:

a. Total annualized capital/startup costs—0
b. Total annual costs (O&M)—0
c. Total annualized cost requested—$2,169,795
d. Current OMB inventory—$2,118,170
e. Difference—$51,625

The Finance Board will accept written comments concerning the accuracy of the burden estimates and suggestions for reducing the burden at the address listed above.

Comments regarding the proposed collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Housing Finance Board, Washington, DC 20503 by July 9, 2001.

IV. Regulatory Flexibility Act

The proposed rule would apply only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 951

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to amend part 951, title 12, chapter IX, Code of Federal Regulations, as follows:

PART 951—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 951 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Amend § 951.3(a)(1) to read as follows:

§ 951.3 Operation of Program and adoption of AHP implementation plan.

(a) *Allocation of AHP contributions*—(1) *Homeownership set-aside programs.*

Each Bank, after consultation with its Advisory Council, may set aside annually, in the aggregate, up to the greater of $3.0 million or 25 percent of its annual required AHP contribution to provide funds to members participating in the Bank's homeownership set-aside programs, pursuant to the requirements of this part. Any homeownership set-aside funds that are not committed or used by the end of the year in which they were set aside shall be committed or used by the end of such year to fund project modifications or the next highest scoring AHP applications in the Bank's final funding period of the year for its competitive application program. In cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, a Bank may allocate up to the greater of $3.0 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs pursuant to written policies adopted by the Bank's board of directors. Beginning in 2002 and for subsequent years, the maximum dollar limits set forth in this paragraph shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board shall publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limits on the maximum set-aside dollar amount. A Bank may establish one or more homeownership set-aside programs pursuant to written policies adopted by the Bank's board of directors. A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility for adopting such policies.

* * * * *

§ 951.4 [Amended]

3. Amend § 951.4 by:

a. In paragraph (a), adding ''and/or community lending'' after ''housing'';

b. In paragraph (b), adding ''and/or community lending'' after ''housing'';

c. In paragraph (f)(1), removing ''community investment'' wherever it appears and adding, in its place, ''community lending''; and

d. In paragraph (f)(3), removing ''community development'' and adding, in its place, ''community lending''.

§ 951.5 [Amended]

4. Amend § 951.5 by removing paragraph (a)(7)(iii).

§ 951.8 [Amended]

5. Amend § 951.8(c)(3) by:

a. Removing the heading for paragraph (c)(3)(i);

b. Removing paragraph designation (c)(3)(i); and

c. Redesignating paragraph (c)(3)(ii) as paragraph (c)(4).

6. Amend § 951.10 by:

a. Revising paragraph (a)(1)(ii);

b. In paragraph (a)(2)(ii), removing ''the member and'' and ''the member or'' wherever they appear; and

c. In paragraph (b)(2), removing paragraph (b)(2)(ii), and removing paragraph designation (b)(2)(i).

The revision reads as follows:

§ 951.10 Initial monitoring requirements.

(a) * * *

(1) * * *

(ii) Where AHP subsidies are used to finance the purchase of owner-occupied units, the project sponsor must maintain household income verification documentation available for review by the member or the Bank.

* * * * *

Dated: May 2, 2001.

By the Board of Directors of the Federal Housing Finance Board.

Allan I. Mendelowitz,

Chairman.

[FR Doc. 01–11706 Filed 5–9–01; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–101739–00]

RIN–1545–AX75

Clarification of Entity Classification Rules; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to section 7701 that address the Federal tax classification of a business entity wholly owned by a foreign government and provide that a nonbank entity that is wholly owned by a foreign bank cannot be disregarded as an entity separate from its owner for purposes of applying the special rules of the Internal Revenue Code applicable to banks.

DATES: The public hearing originally scheduled for May 16, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, January 12, 2001, (66 FR 2854), announced that a public hearing was scheduled for May 16, 2001, at 10 a.m., in room 6718. The subject of the public hearing is proposed regulations under section 7701 of the Internal Revenue Code. The public comment period for these regulations expired on April 25, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, May 4, 2001, no one has requested to speak. Therefore, the public hearing scheduled for May 16, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01–11842 Filed 5–9–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR–038–FOR]

Arkansas Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions to a previously proposed amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions concern submission and processing of requests for valid existing rights determinations; interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress; road systems; public notices of filing of permit applications; and legislative public hearings. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations.

DATES: We will accept written comments until 4 p.m., c.d.t., May 25, 2001.

ADDRESSES: You should mail or hand deliver written comments to Michael C. Wolfrom, Director, Tulsa Field Office at the address listed below.

You may review copies of the Arkansas program, the amendment, 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 Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Arkansas Department of Environmental Quality, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219–8913, Telephone (501) 682–0744.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Discussion of the Proposed Amendment

By letter dated March 1, 2001 (Administrative Record No. AR–567.04), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to a letter dated August 23, 2000 (Administrative Record No. AR–567), that we sent to Arkansas under 30 CFR 732.17(c). We announced receipt of the amendment in the April 6, 2001, **Federal Register** (66 FR 18216) and invited public comment on its adequacy. The public comment period closed May 7, 2001.

During our review of the amendment, we identified concerns relating to submission and processing of requests for valid existing rights determinations; interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress; road systems; public notices of filing of permit applications; and legislative public hearings. We notified Arkansas of these concerns by letter dated April 11, 2001 (Administrative Record No. AR–567.06). By letter dated April 19, 2001 (Administrative Record No. AR–567.08), Arkansas sent us revisions for the following provisions of the amendment:

A. Section 761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

1. Arkansas proposes to make an editorial correction in the last sentence in paragraph (b). The revised last sentence will read as follows:

* * * This request may be submitted before preparing and submitting an application for a permit or boundary revision for the land unless the applicable regulatory program provides otherwise.

2. Arkansas proposes to revise paragraph (d)(1) so that it states that the Office of Surface Mining Reclamation and Enforcement (OSM) instead of ''the agency'' will publish a notice in the **Federal Register** if the applicant's request for valid existing rights determination involves Federal lands within an area listed in Section 761.11(a) or (b).

3. Arkansas proposes to revise the last sentence in paragraph (e)(5)(ii) so that it states that the Office of Surface Mining Reclamation and Enforcement (OSM) instead of ''the agency'' will publish the determination, together with an explanation of appeal rights and procedures, in the **Federal Register** if the applicant's request for valid existing rights determination involves Federal lands within an area listed in Section 761.11(a) or (b).

B. Section 761.200 Interpretative Rule Related to Subsidence Due to Underground Coal Mining in Areas Designated by Act of Congress

Arkansas proposes to revise this section by replacing obsolete ''legislative version'' citations of the State Act with current ''annotated version'' citations of the State Act. The revised section will read as follows:

(a) Interpretation of Section 761.11—AREAS WHERE MINING IS PROHIBITED OR LIMITED. Subsidence due to underground coal mining is not included in the definition of surface coal mining operations under Section 15–58–104(16) of the Act and Section 700.5 of this chapter and therefore is not prohibited in areas protected under Section 15–58–501(a)(1) of the Act.

C. Section 780.37 Road Systems

Arkansas proposes to revise paragraph (a)(4) by replacing the words ''regulatory authority'' with the word ''Director'' for consistency with the other regulations in this section. The revised paragraph will read as follows:

(4) Contain a description of measures to be taken to obtain approval of the Director for alteration or relocation of a natural stream channel under Section 816.151(c)(5) of this chapter;

D. Section 786.11 Public Notices of Filing of Permit Applications

Arkansas proposes to revise paragraph (a)(5) to require applicants to include information on the approximate timing of any proposed relocation or closure of a public road. The revised paragraph will read as follows:

(5) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with Section 761.14 of this Chapter, a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing.

E. Section 786.14 Legislative Public Hearings

Arkansas proposes to revise paragraph (c) to reflect that the public hearings, if requested under Section 761.14(c), are required if the applicant proposes to relocate or close a public road or conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road. The revised paragraph will read as follows:

(c) Legislative Public Hearings held in accordance with this Section may be used by the Director as the public hearing required under Section 761.14(c) where the applicant proposes to relocate or close a public road or conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road.

III. Public Comment Procedures

We are reopening the comment period on the proposed Arkansas program amendment to provide you an opportunity to reconsider the adequacy of the amendment in light of the additional materials sent to us. Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Arkansas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 15-day

comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. AR–038–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this 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 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 proposed State regulatory programs and program amendments submitted by the States 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

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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 counterpart 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 promulgated 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 counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 2, 2001.

John W. Coleman,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–11728 Filed 5–9–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 140

[USCG–2001–9045]

RIN 2115–AG14

Inspections Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to authorize the Minerals Management Service (MMS) to perform inspections, on behalf of the Coast Guard, on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on these facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase the frequency of inspections.

DATES: Comments and related material must reach the Docket Management Facility on or before July 9, 2001.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9045), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact James M. Magill, Vessel and Facility Operating Standards Division (GMMSO–2), telephone 202–267–1082 or fax 202–267–4570. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–9045), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments or material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The purpose of this rulemaking is to authorize the Minerals Management Service (MMS) to perform inspections on fixed Outer Continental Shelf (OCS) facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities for compliance with Coast Guard regulations in 33 CFR chapter I, subchapter N. The Coast Guard and MMS regulate safety on fixed OCS facilities. MMS regulates the structural integrity of the facility, in addition to enforcing all regulations pertaining to production and well-work activities, such as drilling and workover operations. The Coast Guard regulates marine systems, such as lifesaving and navigation equipment, and workplace safety and health. Annually, MMS visits all of the fixed OCS facilities to inspect for violations in the area of its responsibility. The Coast Guard, because of the much fewer number of inspectors available, visits less than 10 percent. On December 18, 1998, MMS and the Coast Guard agreed to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, MMS and the Coast Guard decided that, because MMS was already visiting all of the fixed OCS facilities at least once a year, it would be beneficial to both agencies if MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS facilities. Such an authorization is allowed under the Outer Continental Shelf Lands Act, which, in 43 U.S.C. 1348(a), allows the Coast Guard to use the services and personnel of other Federal agencies for the enforcement of its OCS regulations.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The proposed rule would not impose significant additional costs to MMS's inspection program or to the owners of facilities being inspected. Owners or operators of each facility would be required to incur a slight burden associated with keeping a copy of the annual self-inspection form CG–5432 on the facility. This burden is explained in detail in the ''Collection of Information'' section. We expect the annual cost of this burden to be about $8.25 per facility or $28,776 for the 3,489 facilities engaged in Outer Continental Shelf activities. Using 7 percent as the

discount rate, the 10-year present value of this cost is $202,110.

Authorizing MMS to check for compliance with Coast Guard regulations would avoid duplicating functions and enhance the enforcement of regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We do not expect this proposed rulemaking to create significant additional costs to the MMS or the inspected facilities. This proposed rulemaking would authorize MMS to inspect and enforce Coast Guard regulations on fixed OCS facilities. Coast Guard personnel currently perform these inspections, and authorizing MMS to do so does not reduce the number of inspections nor significantly increase the burden placed on the affected entities. Though it affects all small entities involved, we estimate the additional burden to be $8.25 per facility as shown in the ''Regulatory Evaluation'' section of this preamble. We further explain this burden and the affected entities in the ''Collection of Information'' section of this preamble.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult James M. Magill, Vessel and Facility Operating Standards Division (GMMSO–2), telephone 202–267–1082 or fax 202–267–4570.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service.

Summary of the Collection of Information: This proposed rule would require that a copy of form CG–5432, the annual self-inspection report, be kept on the facility. This form is already required to be completed annually and submitted to the Coast Guard, but a copy is not required to be kept on the facility. This proposed rule would require that a copy be kept on the facility for use by MMS inspectors. The proposed requirement would be added to the already approved collection of information OMB 2115–0569.

Need for Information: A copy of the report is needed on the facility to show MMS inspectors that the annual self-inspection has been conducted.

Proposed Use of Information: The copy of form CG–5432 would be used to confirm that the self-inspection had been conducted.

Description of the Respondents: Owners or operators of fixed OCS facilities.

Number of Respondents: We estimate there are 3,489 facilities engaged in Outer Continental Shelf activities.

Frequency of Response: Each year's form CG–5432 would be required to be kept on the facility for 2 years.

Burden of Response: The burden associated with meeting the proposed requirement would involve duplicating form CG–5432 so that the original can be sent to the Coast Guard, as already required, and a copy kept on the facility. We expect this burden to be 15 minutes annually per facility.

Estimate of Total Annual Burden: We estimate that the proposed requirement would impose a total annual burden on each facility of 15 minutes or 872 hours for all fixed OCS facilities. This amount would be added to the already approved annual burden associated with OMB collection 2115–0569.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that it does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(b), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. The proposed rule is excluded under paragraph (34)(b) because it is administrative in nature and has no environmental effect. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 140

Continental shelf, Incorporation by reference, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

For reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 140 as follows:

PART 140—GENERAL

1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

2. In § 140.10, add, in alphabetical order, the definition of ''Minerals Management Service inspector'' to read as follows:

§ 140.10 Definitions.

* * * * *

Minerals Management Service inspector or *MMS inspector* means an individual employed by the Minerals Management Service who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

* * * * *

3. In § 140.101—

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f);

c. Add a new paragraph (b) to read as set forth below;

d. In redesignated paragraph (c), before the words ''marine inspectors'', add the words ''Coast Guard''; following the words ''OCS activities'', add the words '', and MMS inspectors may inspect fixed OCS facilities,''; and, at the end of the last sentence, add the words ''or MMS''; and

e. In redesignated paragraph (d), remove the words ''a marine inspector'' and add, in their place, the words ''a Coast Guard marine inspector or an MMS inspector''; and remove the words ''The marine inspector'' and add, in their place, the words ''The Coast Guard marine inspector or the MMS inspector''.

§ 140.101 Inspection by Coast Guard marine inspectors or Minerals Management Service inspectors.

* * * * *

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Minerals Management Service (MMS).

* * * * *

4. In § 140.103—

a. In paragraph (b), remove ''140.101(e)'' and add, in its place, ''140.101(f)''; and remove the words ''Marine inspectors'' and add, in their place, the words ''marine inspectors and Minerals Management Service (MMS) inspectors''; and

b. In paragraph (c), remove ''140.101(e)'' and add, in its place, ''140.101(f)''; and at the end of the paragraph, add a sentence to read as follows:

§ 140.103 Annual inspection of fixed OCS facilities.

* * * * *

(c) * * * A copy of the completed form must be retained on the facility for 2 years after the inspection and made available to MMS on request.

* * * * *

§ 140.105 [Amended]

5. In § 140.105—

a. In paragraph (a), after the words ''during an inspection'', add the words ''by a Coast Guard marine inspector or a Minerals Management Service (MMS) inspector'';

b. In paragraph (b), before the words ''is reported to'', add the words ''or an MMS inspector''; and, after the words ''time specified by the'', remove the words ''Coast Guard'';

c. In paragraph (c), after the words ''fire fighting equipment deficiencies'', add the words ''on fixed OCS facilities''; and remove the words ''the OCMI'' wherever they appear and add, in their place, ''MMS''; and

d. In paragraph (d), after the words ''Marine Inspection,'' add the words ''or MMS (for deficiencies or hazards discovered by MMS during an inspection of a fixed OCS facility)''.

Dated: March 16, 2001.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–11848 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AE20; 2900–AE60

Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA by Holders; Acceptance of Partial Payments; Indemnification of Default

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rules: withdrawal.

SUMMARY: This document withdraws the proposal to amend the loan guaranty regulations that was published in the **Federal Register** on August 6, 1990 (55 FR 31847). We proposed to authorize the Secretary of Veterans Affairs to specify the title documentation required from the holder when VA acquires a property which was financed with a VA-guaranteed loan that has been terminated and to authorize the Secretary of Veterans Affairs to establish a date by which VA must receive such title documentation from the holder. Further, we proposed to require that a property acquired by VA be vacant

when conveyed to VA unless someone properly in possession by virtue of a redemption period occupies it or VA otherwise directs the holder. This document also withdraws the proposal to amend the loan guaranty regulations that was published in the **Federal Register** on March 2, 1994 (59 FR 9944). In the March 2, 1994 document, we proposed to change the regulations by requiring that the mortgage holder provide notice to VA when refusing to accept partial payment on a loan in default and to clarify when a veteran is liable to VA for a loss due to a loan default. We are reconsidering the issues raised in both proposed rules in light of changes that have occurred in the industry since the proposals were promulgated. These issues may be the subject of a future rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Fyne, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, phone (202) 273–7380. (This is not a toll-free number.)

Approved: February 15, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–11745 Filed 5–9–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. NY46–217b, FRL–6977–3]

Approval and Promulgation of State Plans For Designated Facilities; New York

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the New York supplementary submittal for meeting EPA's conditional approval of the New York State Plan for regulating existing Municipal Solid Waste Landfills. The supplemental submittal documents that, except for two landfills, all are in compliance. A Title V permit containing a compliance schedule with all five federally enforceable increments of progress has been provided for one landfill and the other landfill is undergoing an applicability determination. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's State Plan submittal, as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 11, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Craig Flamm, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4021.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: April 19, 2001.

William J. Muszynski,

Acting Regional Administrator Region 2.

[FR Doc. 01–11830 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AD23

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Based on recent cost information, we (FEMA) propose to adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance.

DATES: Comments on this proposed rule should be received on or before June 11, 2001.

ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Edward L. Connor, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, 202–646–3443, (facsimile) 202–646–3445, (email) *Edward.Connor@fema.gov.*

SUPPLEMENTARY INFORMATION: Under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance under the Write Your Own (WYO) program, participating insurers are entitled to an expense allowance—a portion of the flood premiums from the policies that the insurers sell. The expense allowance is based on data for the property/casualty industry published, as of March 15 of the prior Arrangement year, in Part III of the Insurance Expense Exhibit in A.M. Best Company's Aggregates and Averages for five property coverages.

Based on our analysis of recent expense information from the companies, we conclude that we should increase the current expense allowance under the Arrangement. We are therefore proposing a change in the expense allowance to reflect this new cost information.

National Environmental Policy Act (NEPA)

NEPA imposes requirements for considering the environmental impacts of agency decisions. It requires that an agency prepare an Environmental Impact Statement (EIS) for ''major federal actions significantly affecting the quality of the human environment.'' If an action may or may not have a significant impact, the agency must prepare an environmental assessment (EA). If, as a result of this study, the agency makes a Finding of No Significant Impact (FONSI), no further

action is necessary. If it will have a significant effect, then the agency uses the EA to develop an EIS.

Categorical Exclusions. Agencies can categorically identify actions (for example, repair of a building damaged by a disaster) that do not normally have a significant impact on the environment. The purpose of this proposed rule is to adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance.

Accordingly, we have determined that this rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion under 44 CFR 10.8(d)(2)(i), which addresses the preparation, revision, and adoption of regulations, directives, and other guidance documents related to actions that qualify for categorical exclusions. We have not prepared an environmental assessment or environmental impact statement as defined by NEPA.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this proposed rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

For the reasons that follow we have concluded that the proposed rule is neither an economically significant nor a significant regulatory action under the Executive Order. The rule would adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance. The adjustment would increase by approximately $14 million the expense allowance paid to the WYO private sector insurers. It would not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It would create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It would not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Office of Management and Budget has not reviewed this proposed rule under the principles of Executive Order 12866.

Paperwork Reduction Act

This rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When 5 U.S.C. 553 requires an agency to publish a notice of proposed rulemaking, the Act requires a regulatory flexibility analysis for both the proposed rule and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The Act also provides that if a regulatory flexibility analysis is not required, the agency must certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities.''

This proposed rule revises the NFIP regulations to adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance. Therefore, I certify that a regulatory flexibility analysis is not required for this rule because it would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this proposed rule under E.O.13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule would adjust the expense allowance under the Financial Assistance/Subsidy Arrangement between the Federal Insurance Administrator and the private sector insurers that sell and service flood insurance. The rule in no way that we foresee affects the distribution of power and responsibilities among the various levels of government or limits the policymaking discretion of the States.

List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, amend 44 CFR Part 62 as follows:

PART 62—INSURANCE COVERAGE AND RATES

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Revise Article III.B of appendix A to part 62 to read as follows:

Appendix A to Part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement

* * * * *

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

* * * * *

B. The Company may withhold as operating and administrative expenses, other than agents' or brokers' commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's marketing, operating, and administrative expenses, except for allocated

and unallocated loss adjustment expenses described in C. of this article. This amount will equal the sum of the average of industry expense ratios for ''Other Acq.'', ''Gen. Exp.'', and ''Taxes'' calculated by aggregating premiums and expense amounts for each of five property coverages using direct premium and expense information to derive weighted average expense ratios. For this purpose, we (the Federal Insurance Administration) will use data for the property/casualty industry published, as of March 15 of the prior Arrangement year, in Part III of the Insurance Expense Exhibit in A.M. Best Company's *Aggregates and Averages* for the following five property coverages: Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril (non-liability portion). In addition, this amount will be increased by one percentage point to reimburse expenses beyond regular property/casualty expenses.

The Company may retain fifteen percent (15%) of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

The amount of expense allowance retained by the Company may increase a maximum of two percentage points, depending on the extent to which the Company meets the marketing goals for the Arrangement year contained in marketing guidelines established pursuant to Article II.G. We will pay the company the amount of any increase after the end of the Arrangement year.

The Company, with the consent of the Administrator as to terms and costs, may use the services of a national rating organization, licensed under state law, to help us undertake and carry out such studies and investigations on a community or individual risk basis, and to determine equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. We will reimburse the Company for the charges or fees for such services under the provisions of the WYO Accounting Procedures Manual.

* * * * *

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: May 1, 2001.

Howard Leikin,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 01–11365 Filed 5–9–01; 8:45 am]

BILLING CODE 6718–03–P

Notices

Federal Register
Vol. 66, No. 91
Thursday, May 10, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–085–5]

Aquaculture; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are issuing this notice to inform the aquaculture industries, interested parties, and the general public that a public meeting will be held to discuss how and to what extent the Animal and Plant Health Inspection Service should regulate aquatic species and to discuss any other issues concerning possible regulation of aquaculture by the Agency.

DATES: The public meeting will be held on Friday, June 8, 2001, from 2 p.m. to 5 p.m.

ADDRESSES: The public meeting will be held in the Community Meeting Room of the Twin Falls County Office Building, 246 Third Avenue East, Twin Falls, ID, in conjunction with the annual meeting of the Idaho Aquaculture Association.

FOR FURTHER INFORMATION CONTACT: For information about the APHIS public meeting, contact Dr. Otis Miller, Jr., National Aquaculture Coordinator, Center for Planning, Certification, and Monitoring, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231, (301) 734–6188.

For information regarding the annual meeting of the Idaho Aquaculture Association, call Mr. Dave Bruhn, Executive Secretary, Idaho Aquaculture Association, (208) 543–4898.

SUPPLEMENTARY INFORMATION: On May 4, 1999, the Animal and Plant Health Inspection Service (APHIS) published an advance notice of proposed rulemaking (ANPR) titled ''Aquaculture: Farm-Raised Fin Fish'' in the **Federal Register** (64 FR 23795–23796, Docket No. 98–085–1). We published this ANPR after receiving petitions [1] asking us to regulate aquaculture in various ways. Many petitioners asked us to define farmed aquatic animals as livestock. In general, the petitioners seemed to be interested in receiving the same services that domestic producers of livestock receive for animals moving in interstate and foreign commerce. However, based on the petitions alone, it was difficult for us to determine what segments of the industry want services and exactly what services they want. It was also difficult to determine the objectives sought by the petitioners who were requesting Federal regulation. We published the ANPR in an attempt to clarify the industry's needs, the nature of the services sought, and the concerns the petitioners had with regard to such regulations.

We received 55 comments [2] in response to the ANPR. A majority of the commenters supported the idea of APHIS regulation of cultured fin fish. Unfortunately, the commenters generally did not clearly distinguish between fin fish raised for food and ornamental fin fish. Commenters who wanted regulation were, however, very clear that they want programs to prevent and control disease and to support increased commerce, both domestic and export.

The commenters also suggested that any rulemaking initiated by APHIS be a negotiated rulemaking. In negotiated rulemaking, industry representatives and other interested persons meet with APHIS officials and draft proposed regulations together. The proposed regulations are then published for public comment. Negotiated rulemaking is designed to ensure that all interested persons are involved together from the start in the development of regulations.

Unfortunately, negotiated rulemaking is not suitable for all situations. It works well when there is a small number of interested parties and the parties are easy to identify. This is not the case with aquaculture. Because the aquaculture industry is large and diverse, we would have difficulty identifying everyone who should be represented in a negotiated rulemaking. In addition, many parties outside of aquaculture would have a substantial interest in such a rulemaking. In our view, the number of people who would need to participate in a negotiated rulemaking would be too large and would suggest that negotiated rulemaking is not appropriate. Furthermore, a negotiated rulemaking would be expensive, and APHIS does not have adequate funds. Therefore, we have concluded that it would not be appropriate to pursue an aquaculture negotiated rulemaking.

However, we have not decided whether to pursue aquaculture rulemaking by other means. Before we make that decision, we want to have as much information as possible from all interested persons, and we want to provide you with as much opportunity as possible to discuss with us and inform us regarding the relevant issues.

Therefore, we are holding a series of public meetings. Public meetings allow all interested parties—industry representatives, producers, consumers, and others—to present their views and to exchange information among themselves and with APHIS.

There are no set agendas for the meetings. Any issues and concerns related to aquaculture and possible APHIS regulatory action can be discussed. However, we would like more information on three specific issues. These are issues that the people and organizations who commented on our ANPR either did not address or were unclear about. Specifically, if APHIS does propose regulations: (1) Should our program be mandatory or voluntary; (2) should we cover shell fish; and (3) should we cover ornamental fin fish?

Information elicited at the meetings could result in a new APHIS regulatory program or in changes to aquaculture-

[1] All the petitions and comments we received are a part of the rulemaking record for Docket No. 98–085–1. You may read the petitions and comments in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

[2] All the petitions and comments we received are a part of the rulemaking record for Docket No. 98–085–1. You may read the petitions and comments in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

related services currently provided by APHIS.

We have scheduled this public meeting, the fourth meeting in our series, for Friday, June 8, 2001, in the Community Meeting Room of the Twin Falls County Office Building, Twin Falls, ID. If you wish to speak at the meeting, please register in advance by calling the Regulatory Analysis and Development voice mail at (301) 734–4339. Leave a message with your name, telephone number, organization, if any, and an estimate of the time you need to speak. You may also register at the meeting by following the instructions provided by an APHIS representative at the beginning of the meeting. Starting with the advance registrants, we will call speakers in the order in which they registered.

The meeting will begin at 2 p.m. and is scheduled to end at 5 p.m. We may end the meeting early if all the registered speakers have had a chance to speak and if no one else wants to speak. We may also extend the meeting or limit the time allowed for each speaker, if necessary, so all interested persons have an opportunity to participate.

An APHIS representative will preside at the meeting. The meeting will be recorded. We encourage speakers to present written statements, though it is not required. If you choose to present a written statement, please provide the chairperson with a copy. The complete record, including the transcript and all written comments, will be available to the public.

This meeting is the fourth in our series of public meetings. The first public meeting was held on January 25, 2001, in Lake Buena Vista, FL. The second public meeting was held on February 16, 2001, in Hebron, KY, and the third public meeting was held on April 5, 2001, in Machias, ME. We plan to hold additional meetings in Washington (September 2001, in conjunction with the Pacific Coast Shellfish Growers Association Annual Conference), Pennsylvania (October 2001, in conjunction with the Pennsylvania Aquaculture Advisory Committee and Pennsylvania Aquaculture Association Annual Meeting), Mississippi (October 2001, in conjunction with a meeting of the Catfish Farmers of America), and Arkansas (October 2001, in conjunction with a meeting of the Catfish Farmers of Arkansas). We will publish a notice or notices in the **Federal Register** announcing the dates, times, and locations of the meetings.

Done in Washington, DC, this 4th day of May 2001.

Chester A. Gipson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–11816 Filed 5–9–01; 8:45 am]

BILLING CODE 3410–34–D

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent To Revise and Request an Extension of a Currently Approved Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations, this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to revise and extend a currently approved information collection, Form CSREES–667 ''Proposal Cover Sheet,'' and Form CSREES–668, ''Project Summary.''

DATES: Comments on this notice must be received on or before July 16, 2001 to be assured of consideration.

ADDRESSES: Address all comments regarding this notice to Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, SW., Washington, DC 20250–2240. E-mail: OEP@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: Sally J. Rockey, (202) 401–1761.

SUPPLEMENTARY INFORMATION:

Title: Grant Application Forms for the Small Business Innovation Research Grants Program.

OMB Number: 0524–0025.

Expiration Date of Approval: July 31, 2001.

Type of Request: Intent to revise and extend a currently approved information collection for three years.

Abstract: In 1982, the Small Business Innovation Research (SBIR) Program was authorized by Pub. L. 97–219, and in 1992 reauthorized through October 1, 2000, by Pub. L. 102–564. In 2000, the SBIR program was reauthorized through September 30, 2008, by Pub. L. 106–554. This legislation requires each Federal agency with a research and research and development budget in excess of $100 million to establish an SBIR program. The objectives of the SBIR Program are to stimulate technological innovation in the private sector, strengthen the role of small businesses in meeting Federal research and development needs, increase private sector commercialization of innovations derived from USDA-supported research and development efforts, and foster and encourage participation by women-owned and socially and economically disadvantaged small business firms in technological innovation. The Program is carried out in three separate phases. The purpose of Phase I is to determine the scientific or technical feasibility of ideas; Phase II is the principal research or research and development effort; and Phase III is to stimulate technological innovation and the national return on investment from research through the pursuit of commercial objectives resulting from work carried out in Phases I and II.

USDA conducts its SBIR program through the use of grants awards and these grants are administered by the Agreements and Special Projects Branch and the Grants Management Branch, Office of Extramural Programs, Competitive Research Grants and Awards Management, CSREES. Each year, USDA issues an SBIR program solicitation requesting Phase I proposals. These proposals are evaluated by peer review panels and awarded on a competitive basis. The SBIR Program Solicitation requests that applicants submit proposals following the format outlined in the Small Business Administration (SBA) Policy Directive. This simplified and standardized proposal format is used by all of the Federal agencies participating in the SBIR Program in order to reduce the application burden of the small business firms that wish to apply to more than one agency.

Before awards can be made, certain information is required from applicants as part of an overall proposal package. In addition to project summaries, descriptions of the research or teaching efforts, literature reviews, curricula vitae of principal investigators, and other, relevant technical aspects of the proposed project, supporting documentation of an administrative and budgetary nature also must be provided. Because of the nature of the competitive, peer-reviewed process, it is important that information from applicants be available in a standardized format to ensure equitable treatment.

This program also uses forms approved in the OMB-approved collection of information package 0524–0039. These forms include Form

CSREES–2004, ''Budget;'' Form CSREES–2006, ''National Environmental Policy Act Exclusions Form;'' and Form CSREES–2008, ''Assurance Statement(s)—For Research Projects.''

Forms CSREES–667, ''Phase I and Phase II Proposal Cover Sheet;'' and CSREES–668, ''Phase I and Phase II Project Summary'' are used to obtain USDA recordkeeping data, required certifications, and information used to respond to inquiries from Congress, other Government agencies, and the grantee community concerning grant projects supported by the USDA SBIR Program.

The following information has been collected and will continue to be collected:

Forms CSREES–667— Identification: designates the research topic area under which a proposal is submitted for consideration; *USDA recordkeeping data:* provides names and addresses of principal investigators and authorized agents of small business firms; and *Certifications:* Provides required certifications; for example, the applicant qualifies as a small business for purposes of the SBIR Program; the applicant qualifies as a minority and disadvantaged and/or women-owned small business.

Form CSREES–668—*Project summary:* Provides a Technical Abstract used when releasing information about grant projects supported and keywords to identify the technology/research thrust/commercial application of the projects.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5.15 hours per response.

Respondents: Businesses or other for-profits.

Estimated Number of Responses Per Form: 480 for Form CSREES–667 and 480 for Form CSREES–668.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,472 hours, broken down by: 672 hours for Form CSREES–667 (1.4 hours per 480 respondents) and 1,800 hours for Form CSREES–668 (3.75 hours per 480 respondents).

Copies of this information collection can be obtained from Duane Alphs, Policy and Program Liaison Staff, CSREES, (202) 401–3319. E-mail: OEP@reeusda.gov.

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments should be sent to the address stated in the preamble.

Comments also may be submitted directly to OMB and should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20502.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Done at Washington, DC, this 2d day of May, 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–11817 Filed 5–9–01; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fox and Crescent Reservoir Maintenance, High Uintas Wilderness, Ashley National Forest, Duchesne County, UT

AGENCY: Forest Service, USDA.

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

SUMMARY: Dry Gulch Irrigation Company (DGIC), holder of special use permits to operate Fox and Crescent reservoir dams in the High Uintas Wilderness on the Ashley National Forest, has requested permission to maintain the dam structures to correct deficiencies that may result in failure of the dams in the near future. This maintenance work will require an assessment of environmental consequences, including those associated with proposals to use motorized and mechanical tools and equipment within the boundaries of the High Uintas Wilderness.

DATES: To be most useful for early identification of issues, comments concerning the scope of the analysis should be received in writing by May 29, 2001.

ADDRESSES: Written comments and questions should be send to: Dave Frew, Interdisciplinary Team Leader, Attn: Fox Lake Project, Roosevelt/Duchesne Ranger Districts, Ashley National Forest, 244 West Highway 40, Roosevelt, Utah 84066.

FOR FURTHER INFORMATION CONTACT: Specific questions about the proposed project and analysis should be directed to Dave Frew, Interdisciplinary Team Leader, 244 West Highway 40, Roosevelt, Utah 84066.

Responsible Official: Jack Blackwell, Regional Forester, Intermountain Region, is the responsible official for this EIS and the Record of Decision.

SUPPLEMENTARY INFORMATION: This proposal arose due to concerns found in various state and federal inspections of these dams over the past couple of years. Both of these dams are over 70 years old, and like all human made structures require periodic maintenance to insure their safe continued operation. These reservoirs are accessible only by primitive trail—there are not roads accessing these facilities. In the past, these reservoirs have been accessed from time to time by helicopter. The reservoirs must be maintained if storage is to continue to be allowed.

In 1984, Congress designated the area encompassing these reservoir sites at the High Uintas Wilderness, further complicating access by the wilderness provision against motorized or mechanical access or the use of motorized or mechanical tools and equipment. The 1964 Wilderness Act provides that motorized transport, tools and equipment and/or mechanical access may be authorized in specific circumstances, that being when it is determined they are the minimum requirement necessary for the proper administration of the area, and when authorized by the proper authority.

Proposed Action

DGIC proposes the following activities to insure the proper maintenance of the dams. Both the State of Utah Department of Natural Resources, Division of Water Rights, and the Forest Service agree that the maintenance activities proposed meet the technical requirements, and are necessary to accomplish if the dams are to continue to be used for their intended purpose. The proposed action involves helicopter transport to the reservoir sites for materials and equipment, and also proposes on-site motorized equipment to complete the work.

Fox Lake

Repairs to the outlet pipe with consist of slip lining the existing 36 inch

corrugated pipe with 30″ ID and a 32½″ OD 40 pound pressure HEPE pipe with two joints totaling 96 ft. 6 inches, with a stainless steel band to join the pipes. A new structure will be formed and a new concrete structure will be poured. The outlet structure may also need to be replaced, or if not replaced, then some grout work will be necessary. Existing head gate controls will be removed and the wet well will be filed with native material. A new 30-inch Waterman head gate and frame assembly will be installed on the inlet end of the outlet pipe. The southwest levee will be raised approximately 3 inches in elevation to match the elevation of the dam. The north levee will be raised approximately 9 inches to match the elevation of the dam. Native material from existing borrow pits are proposed to be used to complete this portion of the project. There may also be some work on the main dike to insure proper freeboard.

The leak at the toe of the southwest levee will be excavated into the downstream toe and a sand filter installed to stop any fine material movement through the dike. This sand will be over laid with native material.

Any leaks on the upstream apron of the spillway will be repaired. An 8 inch thick retaining wall, three feet high, and 22 feet long will be poured on the downstream apron and will be doweled into the existing concrete spillway and the cracks will also be repaired. Riprap will be placed on the downstream to protect the spillway. All woody vegetation will be removed from the existing dam, levees, and dike (this action could take place annually or as needed for long term maintenance.)

Crescent Lake

A new head gate frame assembly will be installed and any repairs to the head gate or outlet pipe will be performed to ensure proper operation. The cracks in the masonry dam will be repaired using a grout facing material and glue mixture.

The proposed action requires the following materials at the reservoir sites: An oxygen and acetylene torch, 24 pieces of ½ inch rebar, one generator, one generator welder, two portable electric cement mixers, one grout pump, 100 gallons of fuel, one containment trough, six feet of 36 inch culvert and band, two wheel barrows, two 2 inch water pumps, sealable containers for transportation of human waste materials from the job site, 96.5 feet of HDPE pipe, a 30 inch Waterman head gate, miscellaneous lumber and forms, miscellaneous tools and supplies, and camp equipment and supplies for the work crews.

Transporting these tools and equipment will require an estimated minimum of 16 to 22 helicopter flights. The project is estimated to take 40–45 days with work crews varying from six to fourteen personnel. The helicopter operation will require a staging area be established at a site outside the wilderness at the Reader Creek meadows. The staging area is accessed via the Chepeta Lake road, and the helicopter refueling operations will take place at the staging area. Helicopter drop zones will be located either on the dam itself or within close proximity, to the work areas. If possible, drop zones will be within the reservoir area.

It is proposed that four saddle horses be at the worksite for the duration of the project for safety reasons, and four to six draft horses be available for 21 days to assist with the project work. There will be other horses used as needed for transportation to and from the worksite. The livestock will be using forage areas to the north and west of Fox reservoir. Supplemental feed may be required for the livestock. Campsites will be established t6o support up to 14 persons at one time per campsite. Campsites will be at least one mile apart.

Alternatives

At least two and possibly three action alternatives will be considered in the analysis.

Alternative 1—Proposed Action (As Described Above)

Alternative 2—Complete Repairs Using Primitive Means

This alternative will basically require that the needed work be done with wilderness friendly tools and equipment—minimizing or eliminating the proposed means of access by helicopter and the one-site motorized and mechanical equipment to perform the needed work. This alternative must be analyzed with the understanding that changing the proposal to the extent that repairs cannot effectively be made to meet safety and other pertinent standards will not meet the purpose and need of the project.

Alternative 3—Modification of the Proposed Action

There may be other ways to accomplish the needed work through some variation or modification of the proposed action that will further address important issues or minimize impacts and costs of the project. These modifications often become apparent as the analysis of the project goes forward and our publics become involved in the process.

Alternative 4—No Action

Under this alternative, the proposed repairs will not be completed. This will require that a storage restriction be put on the Fox reservoir immediately and shortly on the Crescent reservoir. Future work under this alternative will require activity to permanently stabilize these reservoirs so as not to function as draw down reservoirs. This alternative effectively eliminates the reservoirs as storage for late season irrigation water to the farms and ranches in the Uinta Basin.

Issues

The following is a preliminary list of issues identified by the ID Team. Other issues raised during public involvement will also be discussed in this EIS. The preliminary issues include:

1. Impacts of the project on wilderness values.
2. Ability to use legally held water rights.
3. Access to the sites—impacts on existing trails.
4. Water Quality.
5. Riparian Areas/Stream Conditions.
6. Borrow areas and sites—material sources.
7. Rehabilitation of disturbed areas.
8. Impact to wilderness visitors including noise, dust, and opportunities for solitude.
9. Impacts to wildlife resources including Threatened, Endangered and Sensitive species.
10. Impacts to outfitter—guide operations.
11. Historical integrity of the dams.

Decision To Be Made

The decision to be made is: Should the DGIC be allowed to effect the repairs, as proposed, on Fox and Crescent dams to allow further use of the reservoirs as storage for late season irrigation water as presently authorized under special use permit, and, if so, what motorized and mechanical tools and equipment will be allowed in the designated High Uintas Wilderness to complete the project. A decision will also be made on the location of the helicopter-staging site outside the wilderness.

Public Involvement

Public participation is especially important at several points during the analysis, particularly during initial scoping and review of the draft EIS. Individuals, organizations, federal, state, and local agencies who are interested in or affected by the decision are invited to participate in the scoping process. This information will be used in the preparation of the draft EIS.

The second major opportunity for public input is during the review of the draft EIS. The draft EIS is expected to be filed with the EPA (Environmental Protection Agency) and to be available for public review in September, 2001. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (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). The Forest Service believes, at this early stage, it is important to give reviewers notice of several federal court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Also environmental objections that could be raised at the draft 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*, (9th Circuit, 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 30-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final 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 statement. Comments may also address the adequacy of the draft EIS or the merits of the alternates formulated and discussed in the statement. Reviewers may wish to refer to the Council on environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered in preparing the final EIS. The final EIS is scheduled for completion in March, 2002.

Dated: April 16, 2001.

Jack G. Troyer,

Deputy Regional Forester.

[FR Doc. 01–11740 Filed 5–9–01; 8:45 am]

BILLING CODE 3401–11–M

DEPARTMENT OF COMMERCE

Census Bureau

School Enrollment Report

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 9, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Josie Baker, U.S. Census Bureau, Room 2331, Washington, DC 20233–0001, 301–457–2441, josephine.d.baker@census.gov

SUPPLEMENTARY INFORMATION:

I. Abstract

Each year the U.S. Census Bureau sends the School Enrollment Report, P–4 form to the 30 state departments of education that do not publish enrollment data early enough in the year for us to use their published reports. Information requested includes fall public and nonpublic enrollment by grade for the state and counties. In six states we collect year-end enrollment. The U.S. Census Bureau uses school enrollment data in preparing estimates of state population. State population estimates are used by dozens of Federal agencies for allocating Federal program funds, as bases for rates of occurrences, and as input for Federal surveys. State and local governments, businesses, and the general public use state population estimates for planning and other information uses.

II. Method of Collection

The School Enrollment Report, P–4 form, is mailed each spring to approximately 30 state education agencies. We request fall public and nonpublic school enrollment by grade for the state and counties. Responses are returned and reviewed on a flow basis during the summer and early fall. Data collected will be used as input for the development of population estimates. The estimates are made in November, December, and January.

III. Data

OMB Number: 0607–0459.

Form Number: P–4.

Type of Review: Regular Review.

Affected Public: State education agencies.

Estimated Number of Respondents: 30.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 15 hours.

Estimated Total Annual Cost: @$27.25 per hour, $409.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Sections 181 and 182.

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 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11812 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Notice of Extension of Time Limit for Preliminary Results of Administrative Antidumping Review: Oil Country Tubular Goods from Japan

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

EFFECTIVE DATE: May 10, 2001.

FOR FURTHER INFORMATION CONTACT: Doug Campau, Holly Hawkins or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–1395, (202) 482–0414 or (202) 482–3020, respectively.

The 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 are to the current regulations, codified at 19 CFR part 351 (2000).

Background

In accordance with 19 CFR § 351.213(b)(2), the Department received a timely request from petitioner U.S. Steel Group that we conduct an administrative review of the sales of Sumitomo Metal Industries. On September 29, 2000, the Department initiated an administrative review of the antidumping duty order on oil country tubular goods (OCTG) for the period of review (POR) of August 1, 1999 to July 31, 2000, in order to determine whether merchandise imported into the United States is being sold at dumped prices.

Extension of Time Limits for Preliminary Results

Because of the complexity and timing of certain issues in this case, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act and section 351.213(h) of the Department's regulations. *See Memorandum from Barbara E. Tillman to Joseph A. Spetrini*, dated April 27, 2001 (on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results to no later than August 31, 2001.

Dated: May 2, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 01–11843 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050301G]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1303); Receipt of request to modify research permit 1245; NMFS has issued permit 1297; NMFS has issued an amendment of enhancement permit 1237.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. R. Michael Laurs, of Southwest Fisheries Science Center (SWFSC); NMFS has received a request to modify permit 1245 from Mr. Bruce Stender of the South Carolina Department of Natural Resources; NMFS has issued permit 1297 to Dr. Peter Dutton of the NMFS - Southwest Fisheries Science Center and an amendment of permit 1237 to the Walla Walla District of the U.S. Army Corps of Engineers at Walla Walla, WA.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on June 11, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

For permits 1245, 1297, 1303: Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

For permits 1237: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (phone: 503–230–5400, fax: 503–230–5435).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (phone:301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 1245, 1297, 1303: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov)

For permits 1237: Robert Koch, Portland, OR (ph: 503–230–5424, fax: 503–230–5435, e-mail: Robert.Koch@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries,

NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionary significant units (ESUs) are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)
Endangered Hawksbill turtle (*Eretmochelys imbricata*)
Endangered Kemp's ridley turtle (*Lepidochelys kempii*)
Endangered Leatherback turtle (*Dermochelys coriacea*)
Threatened Loggerhead turtle (*Caretta caretta*)
Threatened and endangered Olive ridley turtle (*Lepidochelys olivacea*)

Fish

Sockeye salmon (*Oncorhynchus nerka*): endangered Snake River (SnR).
Chinook salmon (*O. tshawytscha*): endangered, naturally produced and artificially propagated, upper Columbia River (UCR) spring; threatened, naturally produced and artificially propagated, SnR spring/summer.
Steelhead (*O. mykiss*): endangered, naturally produced and artificially propagated, UCR; threatened SnR; threatened middle Columbia River.

New Applications Received

Application 1303

The applicant requests authorization to allow take of listed sea turtles while conducting experiments on methods for reducing sea turtle take by longline fisheries in the Pacific Ocean and to allow import of living, deeply hooked sea turtles for treatment and rehabilitation. The applicant proposes to take a total of 15 green, 43 leatherback, 221 loggerhead and 24 olive ridley turtles over the three-year life of the permit. This application is available for download and review from the Office of Protected Resources permitting web site: http://www.nmfs.noaa.gov/prot—res/PR3/Permits/ESAPermit.html.

Modification Requests Received

Permit #1245

The applicant requests a modification to Permit 1245. Permit 1245 authorizes the take of listed sea turtles for scientific research purposes. Permit #1245 authorizes the take of 250 loggerhead, 10 green, 50 Kemp's ridley, five hawksbill and one leatherback turtles annually. Modification #2 would authorize researchers to intubate and ventilate a turtle verified to be unconscious, allow researchers to collect skin biopsies from each turtle, collect an additional biopsy of any abnormal growth and to collect a keratin sample from the carapace of each turtle for mercury content analysis.

Permits and Modified Permits Issued

Permit #1297

Notice was published on March 5, 2001 (66 FR 13305) that Donna McDonald, of Ocean Planet Research, Incorporated applied for a scientific research permit (1297).

The purpose of this project is to continue long-term monitoring of the status of sea turtles in San Diego Bay. Numbers present, species, size, sex, health status, and presence or absence of tag will be recorded. Permit 1297 was issued on April 27, 2001, authorizing take of listed species. Permit 1297 expires May 31, 2006.

Permit #1237

Notice was published on February 16, 2000 (65 FR 7855) that the Corps applied for an enhancement permit (1237). Permit 1237 was issued to the Corps on March 22, 2001 (see 66 FR 18447, April 9, 2001). Permit 1237 authorizes the Corps annual takes of ESA-listed Snake River salmon and steelhead associated with transporting juvenile anadromous fish around the dams and past the reservoirs on the mainstem lower Snake and Columbia Rivers in the Pacific Northwest. The purpose of the Corps' Juvenile Fish Transportation Program is to increase juvenile fish survival over the alternative of in-river passage, given existing in-river migratory conditions. On April 26, 2001, NMFS issued an amendment of enhancement permit 1237. For the permit amendment, the Corps is authorized takes of ESA-listed fish species associated with juvenile fish transport at McNary Dam on the lower Columbia River during the spring 2001 juvenile salmonid outmigration season. The Corps requested the additional ESA-listed fish takes (associated with spring transport at McNary Dam) in its original permit application (see 65 FR 7855, February 16, 2000). Since the beginning of 2001, forecasted river conditions and anticipated estimates of the project passage survival of juvenile fish migrating in the lower Columbia River during 2001 have progressively deteriorated. It now appears that the survival rate of spring-migrating juvenile salmonids between McNary Dam and Bonneville Dam may be lower than previously expected for the 2001 juvenile salmonid outmigration season. Therefore, NMFS has determined that spring transport at McNary Dam by the Corps will not operate to the disadvantage of the ESA-listed fish in 2001. The Corps will load the juvenile fish into aerated trucks and barges for transportation to below Bonneville Dam on the Columbia River. Further handling of the fish does not occur, except for loading via raceways or when the fish are handled for monitoring purposes by Corps personnel or for scientific research purposes by individuals holding separate take authorizations. The amendment is valid for the duration of Permit 1237. However, the conduct of spring transport at McNary Dam in future years will be subject to annual approval by NMFS. Additional annual takes of ESA-listed adult fish associated with handling fallbacks at the juvenile fish transportation facility at McNary Dam are also authorized by the permit amendment. Permit 1237 expires on December 31, 2005.

Dated: May 4, 2001.

Chris Mobley,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11839 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.050101E]

Endangered Species; Permit 1067

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

ACTION: Receipt of application to modify permit 1067.

SUMMARY: Notice is hereby given of the following action regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement. NMFS has received an application from California Department of Fish and Game, Sacramento, CA to modify permit 1067.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on June 11, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528. Comments may also be sent via fax to (707) 578–3435. Comments will not be accepted if submitted via e-mail or the Internet.

The application and related documents are available for review in the following office, by appointment: Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Permits Coordinator, Protected Resources Division, (707–575–6053).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications are (1) applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice: Threatened Central California Coast (CCC) steelhead trout (*Oncorhynchus mykiss*), threatened (CCC) coho salmon (*Oncorhynchus kisutch*), threatened, California Coastal (CC) chinook salmon (*Oncorhynchus tshawytscha*).

Modification Requests Received

The California Department of Fish and Game (CDFG) requests a modification to permit 1067 for takes of adult and juvenile threatened CCC coho salmon (*Oncorhynchus kisutch*) associated with a proposal to develop a conservation hatchery program for coho salmon at the Congressman Don Clausen Fish Hatchery at Warm Springs Dam in Sonoma County, CA. The purpose of this program is to prevent extirpation of portions of the CCC coho salmon ESU by restoring lost or declining stocks and to provide a mechanism to conserve potential broodstock of CCC coho salmon. The overall goal of the program is to restore self-sustaining and self-regulating stocks of coho salmon to the CCC coho salmon ESU. Presently, permit 1067 authorizes intentional takes of adult and juvenile CCC coho salmon for research projects throughout the CCC coho salmon ESU. This requested modification would add additional intentional takes of adult and juvenile CCC coho salmon to the CDFG permit and include authorization to implement an enhancement program. These activities may also result in incidental takes of threatened CCC steelhead (*O. mykiss*) and threatened, California Coastal (CC) chinook salmon, (*O. tshawytscha*). This requested modification to permit 1067 would authorize intentional take of adult and juvenile CCC coho salmon and incidental take of CCC steelhead and CC chinook salmon. Permit 1067 expires on June 30, 2002.

Dated: May 4, 2001.

Chris Mobley,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11841 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042501C]

Marine Mammals; File No. 995-1608

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Mr. Thomas F. Norris, Science Applications International Corp., 3990 Old Town Avenue, Suite 105A, San Diego, California 92110, has been issued a permit to take gray (*Eschrichtius robustus*), minke (*Balaenoptera acutorostrata*), and Bryde's (*Balaenoptera edeni*) whales for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301) 713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018; and

Protected Species Coordinator, Pacific Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On December 21, 2000, notice was published in the **Federal Register** (65 FR 80420) that a request for a scientific research permit to take gray (*Eschrichtius robustus*), minke (*Balaenoptera acutorostrata*), Bryde's (*Balaenoptera edeni*), blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), and humpback (*Megaptera novaengliae*) whales had been submitted by the above-named individual. The requested permit has been issued for the three non-endangered species of whale (gray, minke, and Bryde's) only, under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). The request for a permit related to the three endangered species of whale (blue, fin, and humpback) is deferred pending receipt of a report of the effects of the tags on the non-endangered species.

Dated: May 4, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11840 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Short Supply Request under the African Growth and Opportunity Act (AGOA) and United States–Caribbean Basin Trade Partnership Act (CBTPA)

May 8, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that certain yarns of 55 percent polyester staple fibers and 45 percent worsted wool cannot be supplied by the domestic industry in commercial quantities in a timely manner.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUMMARY: On May 4, 2001 the Chairman of CITA received a petition from Stillwater Sales, Inc./Metcalf Bros. and Company alleging that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count), classified in subheading 5107.20.6000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim that apparel articles of woven U.S. formed-fabric of such yarns be eligible for preferential treatment under the AGOA and the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by May 25, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The AGOA and the CBTPA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. 66 FR 13502.

On May 4, 2001 the Chairman of CITA received a petition from Stillwater Sales, Inc./Metcalf Bros. and Company alleging that yarns of 55 percent polyester staple fibers and 45 percent worsted wool, 1, 2, and 3 ply yarns, in their natural (undyed) state or in their stock dyed state (fiber dyed), with 12 to 20 twists per inch, and in sizes of 1/15 to 1/30, 2/30 to 2/60, and 3/48 to 3/60 worsted count (1/17 to 1/34, 2/34 to 2/68 and 3/54 to 3/68 metric count) classified in subheading 5107.20.6000 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that the President proclaim quota–and duty–free treatment under the AGOA and the CBTPA for apparel articles that are cut and sewn in one or more AGOA or CBTPA beneficiary countries from woven U.S.–formed fabric of such yarns.

CITA is soliciting public comments regarding this request, particularly with respect to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for these yarns for purposes of the intended use. Comments must be received no later than May 25, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that these yarns can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non–confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–11905 Filed 5–8–01; 1:31 pm]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Republic of Korea

May 7, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: May 10, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs

website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 345 in Group II is being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69740, published on November 20, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 10, 2001, you are directed to reduce the current limit for Category 345 in Group II to 133,919 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–11806 Filed 5–9–01; 8:45 am]

BILLING CODE 3510–DR–S

[1]The limit has not been adjusted to account for any imports exported after December 31, 2000.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–05]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–05 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2001.

L.M. Bynum,

Alterate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

24 APR 2001
In reply refer to:
I-01/004161

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-05, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Switzerland for defense articles and services estimated to cost $225 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Tome H Walters

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-05

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Switzerland**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 68 million
Other	$ 157 million
TOTAL	$ 225 million

(iii) **Description of Articles or Services Offered: F/A-18 "Upgrade 21 Program" consisting of Fleet Retrofit Kits of the following systems: 34 AN/APX-111 Combined Interrogator Transponder, 34 Tactical Aircraft Moving Map Capability, 50 Multi-functional Information Distribution System/Low Volume Terminal (Airborne Link-16). Also, Validation and Verification Kits of the following systems: three Joint Helmet Mounted Cueing System, three Enhanced Interface Blanker Unit and three Digital Communications to Wingtips. The proposed program support includes spare and repair parts, support and test equipment, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and other related elements of logistics and program management support.**

(iv) **Military Department: Navy (LAC, Amendment 2)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached**

(vii) **Date Report Delivered to Congress: 24 APR 2001**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Switzerland - F/A-18 Upgrade 21 Program

The Government of Switzerland has requested a possible upgrade of their Swiss Air Force (SAF) F/A-18 aircraft. The F/A-18 "Upgrade 21 Program" consists of Fleet Retrofit Kits of the following systems: 34 AN/APX-111 Combined Interrogator Transponder, 34 Tactical Aircraft Moving Map Capability, 50 Multi-functional Information Distribution System/Low Volume Terminal (Airborne Link-16). Also, Validation and Verification Kits of the following systems: three Joint Helmet Mounted Cueing System, three Enhanced Interface Blanker Unit and three Digital Communications to Wingtips. The proposed program support includes spare and repair parts, support and test equipment, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and other related elements of logistics and program management support. The estimated cost is $225 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Europe.

The SAF intends to purchase the Upgrade 21 Program equipment to enhance survivability, communications connectivity, and extend the useful life of its F-18 fighter aircraft. It has extensive experience operating the F/A-18 aircraft and should have no difficulties incorporating the upgraded capabilities into its forces. The SAF needs this upgrade to keep pace with high tech advances in sensors, weaponry, and communications.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Boeing Military Aircraft and Missile Systems of St. Louis, Missouri. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any contractor representatives in-country; however, it is estimated that U.S. Government representatives will be required in Switzerland for approximately four months during the preparation, equipment installation, and equipment test and checkout of the equipment.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

(vi) Sensitivity of Technology:

1. The Combined Interrogator Transponder (CIT) AN/APX-111(V) IFF system was specifically designed for the F/A-18. The Interrogator function provides the pilot with capability to identify cooperative or friendly aircraft. The transponder function self-identifies the aircraft to other off-board interrogators in the same way as the APX-100 transponder. CIT combines most of the interrogator, transponder, and crypto computer functions into one unit outline. The electronically scanned interrogator antenna function is performed by a five-blade array and Beam Forming Network (BFN).

2. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: RT-1763A/APX-111(V) interrogator-transponder, KIV-6/TSEC cryptographic computer, C-12481/APX-111(V) beam forming network, (5X) AS-4440/APX-111(V) antenna blade elements, IT-to-BFN cable group, BFN-to-FMA cable group, receiver-transmitter radio, antenna position control, antenna set (upper), battery charge panel, external power monitor, ID light transformer/mount, mounting tray assembly BFN, 3L landing gear control unit bay, LGCU mounting tray assembly and relay panel no. 3. AN/APX-111 CIT is classified as Confidential.

3. The Tactical Aircraft Moving Map Capability (TAMMAC) System includes Digital Map Computer with extension, Advanced Memory Unit and High Speed Interface Cable. The TAMMAC system is being developed to alleviate problems, including parts obsolescence issues, associated with the Digital Video Map Set (DVMS) and the Data Storage Set (DSS) currently installed on the F/A-18. The DVMS does not possess sufficient throughput or database storage capability to support future F/A-18 operational requirements. Additionally, the DVMS cannot use Compressed AC Digitized Raster Graphic the digital map database provided by the National Imagery and Mapping Agency (NIMA), without costing preprocessing. The DSS does not provide enough memory capacity to store the desired amount of data recorded by the aircraft during flight.

4. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: advanced memory unit, MU-1129A/A memory unit, digital map set, and CP-2414A/A digital map computer. TAMMAC system is classified as Confidential.

5. The Multifunctional Information Distribution System (MIDS) Low Volume Terminal (LVT) is a secure data and voice communication network using the Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure fighter-to-fighter connectivity, secure voice capability, and ARN-118 TACAN functionality. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS LVT can be used to transfer data in Air-to-Air, Air-to-Surface, and Air-to-Ground scenarios.

6. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: RT-1765 C/USQ-140(V)C MIDS/LVT and MIDS notch filter set. MIDS/LVT is classified as Confidential.

7. The Joint Helmet Mounted Cueing System (JHMCS) provides an off-boresight visual targeting of sensors and weapons with a head-out display where the pilot is looking. The system improves situational awareness in visual combat while providing off-boresight visual cueing and threat identification. Also, when combined with a high off-boresight missile, aircraft weapon system lethality is improved for short-range air-to-air engagements.

8. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: electronics unit, cockpit unit, magnetic transition unit, seat position sensor, mounting bracket, lower helmet vehicle interface, helmet display unit, visor day, visor night, visor high contrast, oxygen mask, helmet upper interface, JHMCS/ANVIS-9 Night Vision Goggles adapters, and JHMCS helmet bag. The JHMCS is classified as Confidential.

9. The MIDS Enhanced Interference Blanking Units (EIBU) provides validation and verification of equipment and concept. EIBU enhances input/output signal capacity of the MIDS LVT and addresses parts obsolescence.

10. The configuration requested is compatible for use in F-18 aircraft. The configuration consists of the following equipment: MX-11741/A interference blanker.

11. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

12. A determination has been made that Switzerland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 01–11757 Filed 5–9–01; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–06]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–06 with attached transmittal and policy justification.

Dated: May 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

23 APR 2001
In reply refer to:
I-01/003905

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-06, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services estimated to cost $500 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-06

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Republic of Korea**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$ 500 million
TOTAL	$ 500 million

(iii) **Description of Articles or Services Offered: A Cooperative Logistics Supply Support Agreement (CLSSA) requisition case (FMSO II) for the support of F-4D/E, RF-4C, F-5A/B/E/F, RF-5A, A/T-37, T-38, F-16C/D, and C-130H aircraft; AN/FPS-117 and AN/FRN-45 radar systems; and AIM-7, AIM-9 and AIM-120 missile components. These items are of U.S. origin and are being operated by the Republic of Korea.**

(iv) **Military Department: Air Force (KCL)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none**

(vii) **Date Report Delivered to Congress: 23 APR 2001**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Republic of Korea - Cooperative Logistics Supply Support Agreement

The Republic of Korea has requested a possible sale of spare parts under a Cooperative Logistics Supply Support Agreement (CLSSA) requisition case (FMSO II) for the support of F-4D/E, RF-4C, F-5A/B/E/F, RF-5A, A/T-37, T-38, F-16C/D, and C-130H aircraft; AN/FPS-117 and AN/FRN-45 radar systems; and AIM-7, AIM-9 and AIM-120 missile components. These items are of U.S. origin and are being operated by the Republic of Korea. The estimated cost is $500 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Northeast Asia.

The Republic of Korea needs these additional spare parts to maintain the aircraft, radar, and missile systems previously procured from the United States in a mission capable status.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items of support will be from the many contractors providing similar items to the U.S. armed forces. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Republic of Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 01–11758 Filed 5–9–01; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–08]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, DOD.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–08 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

23 APR 2001
In reply refer to:
I-01/002571

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-08 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services estimated to cost $98 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(b)(1)(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale are described in the enclosed confidential attachment.

Sincerely,

Tome H Walters Jr

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Republic of Korea**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 59 million
Other	$ 39 million
TOTAL	$ 98 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Three MK 41 Vertical Launch Systems, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, launch system software development and maintenance and other related elements of logistics support.**

(iv) **Military Department: Navy (LPJ)**

(v) **Prior Related Cases, if any: FMS case LOW - $70 million - 14Dec98**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached**

(viii) **Date Report Delivered to Congress: 23 APR 2001**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Republic of Korea - MK 41 Vertical Launch Systems

The Republic of Korea Government has requested the possible sale of three MK 41 Vertical Launch Systems, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, launch system software development and maintenance and other related elements of logistics support. The estimated cost is $98 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Northeast Asia.

The missile launchers will be installed on new construction destroyers and are intended for use with STANDARD missiles as the principal air defense armament of these new vessels. Korea will have no difficulty absorbing these additional missile launch systems into its armed forces.

The proposed sale of this shipboard missile launch systems and support will not affect the basic military balance in the region.

The principal contractors will be Lockheed Martin Marine Systems of Middle River, Maryland and United Defense Limited Partnership of Minneapolis, Minnesota. One or more proposed offset agreements might be related to this proposed sale.

Implementation of this proposed sale will require the assignment of three U.S. Government and six contractor representatives in Korea for approximately 39 months during the preparation, equipment installations, and equipment test and checkout of the MK 41 Vertical Launch Systems on the ships.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 01-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The MK-41 Vertical Launch Systems (VLS) contains sensitive technology and is Unclassified. The Launch Control Computer Program (LCCP), which also contains missile launch rates, is classified Confidential. The LCCP provides the control and processing to interface the Weapon Control System with the VLS. Sections of the MK-41 technical documentation, which disclose launcher vulnerabilities, are classified Confidential.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 01–11759 Filed 5–9–01; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on May 31, 2001, and June 1, 2001, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA 22201. The Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, materiel, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption; tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required capability and any significant impediments to accomplishing this goal.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: May 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–11760 Filed 5–9–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Meeting With the Community College of the Air Force (CCAF) Board of Visitors To Review and Discuss Academic Policies and Issues Relative to the Operation of the College

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: The CCAF Board of Visitors will hold a meeting to review and discuss academic policies and issues relative to the operation of the college. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact First Lieutenant Matthew M. Groleau, Designated Federal Officer for the Board, at the address below no later than 4:00 p.m. on August 1, 2001. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues

to be addressed. A minimum of 35 copies of the presentation materials must be given to First Lieutenant Matt Groleau no later than 3 days prior to the time of the board meeting for distribution. Visual aids must be submitted to First Lieutenant Matt Groleau on a 3½-inch computer disk in Microsoft PowerPoint format no later than 4:00 p.m. on August 1, 2001 to allow sufficient time for virus scanning and formatting of the slides.

DATES: The meeting will be held on Tuesday, August 21, 2001 at 8:00 a.m. in the First Floor Conference Room, Community College of the Air Force, Building 836, 130 West Maxwell Boulevard, Maxwell Air Force Base, Alabama 36112.

FOR FURTHER INFORMATION CONTACT: First Lieutenant Matt Groleau, (334) 953–7322, Community College of the Air Force, 130 West Maxwell Boulevard, Maxwell Air Force Base, Alabama, 36112–6613, or through electronic mail at *matthew.groleau@maxwell.af.mil.*

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–11819 Filed 5–9–01; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Fort Sam Houston and Camp Bullis Master Plan Draft Programmatic Environmental Impact Statement

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Fort Sam Houston and Camp Bullis Master Plan Draft Programmatic Environmental Impact Statement (DPEIS), which assesses the potential environmental impacts of implementing three master planning alternatives. Alternative 1 (No Action Alternative) includes the continuation of: The currently identified stationed population reductions, as reflected in the Army Stationing and Installation Plan; the projected reductions in the Real Property Maintenance Activity budget program for facility maintenance and repair; the ''zero investment'' maintenance expenditures for vacant historical facilities, and the projected reductions in the Base Operations budget program for utilities and other engineering services. Alternative 2 (Reuse of Facilities and Property by Federal Users) would result in an adaptive reuse of currently vacant historical facilities using the existing appropriated funds process. This maybe accomplished by bringing to Fort Sam Houston: Additional military missions through individual stationing decisions that take advantage of the capabilities of Fort Sam Houston; and/or additional federal missions through individual stationing decisions that take advantage of the capabilities of Fort Sam Houston. Alternative 3 (Reduction of Underutilized/Unutilized Property through Lease, Sale, or Removal) would result in the reduction of underutilized/unutilized facilities and property on Fort Sam Houston and Camp Bullis, in addition to changes in the Land Use Plan. The reduction in underutilized/unutilized property may be accomplished through: Outgrant leases to the city, county, state, private citizens, businesses, or investors; sale to the city, county, state, private citizens, businesses, or investors; removal from the site; or demolition. The Army may select any one alternative or a combination of alternatives for future activities and planning at Fort Sam Houston.

DATES: The comment period for the DPEIS will end 45 days after publication of the notice of availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the DPEIS, contact Ms. Jackie Schlatter, PEIS Project Manager, ATTN: MCCS-BPW-E, 2202 15th Street (Bldg. 4196), Fort Sam Houston, Texas 78234–5007.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Schlatter at (210) 221–5093, by email at jackie.schlatter@cen.amedd.army.mil, or by fax at (210) 221–5419.

SUPPLEMENTARY INFORMATION: This document includes analyses of the potential environmental consequences that the alternative actions may have on land use and visual resources, transportation, utilities, earth resources, air quality, water resources, biological resources, cultural resources, socio-economics, noise, and hazardous materials and items of special concern. The findings indicate that potential environmental impacts from the alternatives may result in some impacts to cultural resources.

A public meeting will be conducted by the Army to receive comments on the DPEIS. Additional information regarding the public meeting will be provided in local and regional newspapers.

The DPEIS has been provided to the following libraries for public access to the document: Fort Sam Houston Library, Bldg. 1222, 2601 Harney, Fort Sam Houston, TX 78234 and the San Antonio Public Library, 600 Soledad Plaza, San Antonio, TX 78205.

Dated: May 4, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 01–11805 Filed 5–9–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to consolidate three systems of records under one notice. As a result of the consolidation, two routine uses are being added to the system of records. The routine uses will permit the disclosure of information to the Federal Aviation Administration to obtain flight certification/ licensing; and to the Department of Veterans Affairs.

DATES: This proposed action will be effective without further notice on June 11, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 3, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. 1–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 3, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS:

A0145–1a TRADOC–ROTC

SYSTEM NAME:

ROTC Applicant/Member Records (July 15, 1997, 62 FR 37894).

REASON:

Records are now covered under A0145–1 TRADOC, Army Reserve Officer's Training Corps (ROTC) and Financial Assistance Programs.

A0145–1b TRADOC–ROTC

SYSTEM NAME:

ROTC Financial Assistance (Scholarship) Application File (July 15, 1997, 62 FR 37895).

REASON:

Records are now covered under A0145–1 TRADOC, Army Reserve Officer's Training Corps (ROTC) and Financial Assistance Programs.

ALTERATION:

A0145–1 TRADOC

SYSTEM NAME:

Army Reserve Officer's Training Corps Gold QUEST Referral System (July 15, 1997, 62 FR 37893).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Army Reserve Officer's Training Corps (ROTC) and Financial Assistance Programs'.

SYSTEM LOCATION:

Delete entry and replace with 'MCS, Incorporated, 10041 Polinski Road, Ivyland, PA 18974–9872; Headquarters, U.S. Army Reserve Officer's Training Corps Cadet Command, 56 Patch Road, Fort Monroe, VA 23651–5000; U.S. Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400; offices of the Professor of Military Science at civilian institutions in ROTC regional offices; ROTC Cadet Battalions and Reserve Officers Training Corps Brigade Recruiting Teams Officer's Training Corps Goldminer Teams. Official mailing addresses are published as an appendix to the Army's compilation of system of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals who apply and are accepted into the Army ROTC program; potential enrollees in the Senior ROTC program; and individuals who desire to participate in the Army ROTC Financial Assistance (Scholarship Program).'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Records include individual applications and/or prospect referrals for appointment which include such personal data as name, Social Security Number; sex, date and place of birth, citizenship; home address, telephone number; marital status, dependents, name of high school, high school graduation date, grade point average; Scholastic Assessment Test, American College Testing, Preliminary Scholastic Assessment Testing scores; college admission status; college(s) expected to attend, desired academic major(s); academic transcripts and certificates of education to prior military service information, training, college board scores and test results; medical examination, acceptance/declination, interview board results; financial assistance document awards, ROTC contract and evaluation from Professor of Military Science commanding officer; photographs, references; correspondence between the member and the Army or other Federal agencies, letters of recommendation, inquiries regarding applicant's selection or nonselection, letter of appointment in Active Army on completion of ROTC status; Security clearance documents, reports of Reserve Officer Training Corps Advanced, Ranger, or Basic Camp performance of applicant.'

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 2101–2111, Reserve Officer Training Corps, and 10 U.S.C. 3013, Secretary of the Army, Army Regulation 145–1, Senior Reserve Officer's Training Corps Program: Organization, Administration, and Training; Army Regulation 145–2, Junior Reserve Officer's Training Corps Program: Organization, Administration and Training, and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'To provide a central database of potential prospects for enrollment in the ROTC and the Senior Army ROTC program, provide training and commissioning of eligible cadets in active Army and to assist prospects by providing information concerning educational institutions having ROTC programs; scholarship information and applications, information on specialized programs such as Nursing, Green to Gold and historically Black Colleges and Universities information regarding other Army enlistment, reserve or National Guard programs. System renders personnel management, recruitment management, information reports, and refers qualified prospects to a Professor of Military Science at or near their college(s) of choice, strength and manpower management accounting. Also administers the financial assistance program; renders the selection of recipients for 2, 3, and 4 year scholarships; monitor selectees performance (academic and ROTC) and also develop policies and procedures, compile statistics and renders reports.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add two new paragraphs 'To the Federal Aviation Administration to obtain flight certification and/or licensing.

To the Department of Veterans Affairs for member Group Life Insurance and/or other benefits.'

Add a new category 'Disclosure to consumer reporting agencies: Disclosures pursuant to 5 U.S.C. 522a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (14 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government; typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

This disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

STORAGE:

Delete entry and replace with 'electronic storage media and paper records in file folders in secured cabinets.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Cadet Command Form 139 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful

completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pages 1 and 2 are reproduced and sent to the commandant of individual's basic branch course school. Records of rejected ROTC applicants are destroyed. Other records mentioned in preceding paragraphs are immediately destroyed unless the records are for financial assistance which are retained for 1 year then destroyed or if they are not required to become part of individual's Military Personnel Records jacket. ROTC QUEST records are retained for 3 years then destroyed. ROTC Scholarship application records are destroyed 1 year after graduation or disenrollment.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Source categories can be used for all areas covered in this system, however, the retrieval of this information is limited only to specific areas of interest and specialty: Prospects include the Army ROTC toll-free telephone number, magazines, newspapers, poster advertising coupons, mail-back reply cards, letters, walk-ins, referrals from parents, relatives, civilian educational institutions and staff, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, boys' clubs, boy scout organizations, Future Farmers of America, minority and civil rights organizations, fraternity and church organizations; neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, boys state/girls state/ scholarship organizations, U.S. Army Recruiting Command, Military Academy Liaison officers, West Point non-select listing, previous employers, trade organizations, military service, and other organizations and commands comprising the Department of Defense, Army records, addressing entitlement status, medical examination and treatment, security determination and attendance and training information while ROTC cadet.'

* * * * *

A0145–1 TRADOC

SYSTEM NAME:

Army Reserve Officer's Training Corps (ROTC) and Financial Assistance Programs.

SYSTEM LOCATION:

MCS, Incorporated, 10041 Polinski Road, Ivyland, PA 18974–9872; Headquarters, U.S. Army Reserve Officer's Training Corps Cadet Command, 56 Patch Road, Fort Monroe, VA 23651–5000; U.S. Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400; offices of the Professor of Military Science at civilian institutions in ROTC regional offices; ROTC Cadet Battalions and Reserve Officers Training Corps Brigade Recruiting Teams and Reserve Officer's Training Corps Goldminer Teams. Official mailing addresses are published as an appendix to the Army's compilation of system of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply and are accepted into the Army ROTC program; potential enrollees in the Senior ROTC program; and individuals who desire to participate in the Army ROTC Financial Assistance (Scholarship Program).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include individual applications and/or prospect referrals for appointment which include such personal data as name, Social Security Number; sex, date and place of birth, citizenship; home address, telephone number; marital status, dependents, name of high school, high school graduation date, grade point average; Scholastic Assessment Test, American College Testing, preliminary Scholastic Assessment Testing scores; college admission status,; college(s) expected to attend, desired academic major(s); academic transcripts and certificates of education to prior military service information, training, college board scores and test results; medical examination, acceptance/declination, interview board results; financial assistance document awards, ROTC contract and evaluation from Professor of Military Science commanding officer; photographs, references; correspondence between the member and the Army of other Federal agencies, letters of recommendation, inquiries regarding applicant's selection or nonselection, letter of appointment in Active Army on completion of ROTC status; Security clearance documents, reports of Reserve Officer Training Corps Advanced, Ranger, or Basic Camp performance of applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2101–2111, Reserve Officer Training Corps, and 10 U.S.C. 3013, Secretary of the Army; Army Regulation 145–1, Senior Reserve Officer's Training Corps Program: Organization, Administration, and Training; Army Regulation 145–2, Junior Reserve Officer's Training Corps Program: Organization, Administration and Training, and E.O. 9397 (SSN).

PURPOSE(S):

To provide a central database of potential prospects for enrollment in the ROTC and the Senior Army ROTC program, provide training and commissioning of eligible cadets in active Army and to assist prospects by providing information concerning educational institutions having ROTC programs; scholarship information and applications, information on specialized programs such as Nursing, Green to Gold and historically Black Colleges and Universities and information regarding other Army enlistment, reserve or National Guard programs. System renders personnel management, recruitment management, information reports, and refers qualified prospects to a Professor of Military Science at or near their college(s) of choice, strength and manpower management accounting. Also administers the financial assistance program; renders the selection of recipients for 2, 3, and 4 year scholarships; monitor selectees performance (academic and ROTC) and also develop policies and procedures, compile statistics and render reports.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Federal Aviation Administration to obtain a flight certification and/or licensing.

To the Department of Veterans Affairs for member Group Life Insurance and/ or other benefits.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems or records notices also apply to this system.

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)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government; typically to provide an incentive for debtors to repay delinquent Federal government debts by

making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and paper records in file folders in secured cabinets.

RETRIEVABILITY:

By name, Social Security Number, address peculiar identification assigned or other characteristics of qualification or identity.

SAFEGUARDS:

Records maintained in secure area accessible only to authorized personnel in the performance of their duties. Automated records accessible only to authorized personnel with password capability.

RETENTION AND DISPOSAL:

Cadet Command Form 139 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pages 1 and 2 are reproduced and sent to the commandant of individual's basic branch course school. Records of rejected ROTC applicants are destroyed. Other records mentioned in preceding paragraphs are immediately destroyed unless the records are for financial assistance which are retained for 1 year then destroyed or if they are not required to become part of individual's Military Personnel Records Jacket. ROTC QUEST records are retained for 3 years then destroyed. ROTC Scholarship application records are destroyed 1 year after graduation or disenrollment.

SYSTEM MANAGER(S) AND ADDRESS:

ROTC applicants and members: Commander, Fort Monroe, Information Management Officer, Building 256, Fort Monroe, VA 23651–5000.

ROTC QUEST referral applicants: Commander, Fort Monroe, Marketing Directorate, Building 57, Fort Monroe, VA 23651–5000.

ROTC financial assistance application files: Commander, Fort Monroe, Resource Management Officer, Building 256, Fort Monroe, VA 23651–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, Building 56, Port Monroe, VA 23651–5000 for records on the ROTC Financial Assistance (Scholarship) Application File and ROTC Applicant/Member Records; or to the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400 for ROTC Applicant/Member Records; or to the Commander, U.S. Army ROTC Cadet Command, Marketing Directorate, Building 57, Fort Monroe, VA 23651–5000 for ROTC QUEST Referral System records.

Individuals should provide their full name, current address, telephone number and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, Building 56, Fort Monroe, VA 23651–5000; or to the Commander, U.S. Total Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400 for ROTC Applicant/Member Records; or to the Commander, U.S. Army ROTC Cadet Command, Marketing Directorate, Building 57, Fort Monroe, VA 23651–5000 for ROTC QUEST Referral System records.

Individuals should provide their full name, current address telephone number and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR Part 505; or may be obtained from the system manager or the Commander, U.S. Army ROTC Cadet Command, Marketing Directorate, Building 57, Fort Monroe, VA 23651–5000.

RECORD SOURCE CATEGORIES:

Source categories can be used for all areas covered in this system, however, the retrieval of this information is limited only to specific areas of interest and specialty: prospects include the Army ROTC toll-free telephone number, magazines, newspapers, poster advertising coupons, mail-back reply cards, letters, walk-ins, referrals from parents, relatives, civilian educational institutions and staff, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, boys' clubs, boy scout organizations, Future Farmers of America minority and civil rights organizations, fraternity and church organizations; neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, boys state/girls state/scholarship organizations, U.S. Army Recruiting Command, Military Academy Liaison officers, West point non-select listing, previous employers, trade organizations, military service, and other organizations and commands comprising the Department of Defense, Army records addressing entitlement status, medical examination and treatment, security determination and attendance and training information while ROTC cadet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None,

[FR Doc. 01–11761 Filed 5–9–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Partially Exclusive License; Wickford Technologies, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice of its intent to grant to Wickford Technologies, Inc., a revocable, nonassignable, partially exclusive license, with exclusive fields of use in recreational marine electronics, petroleum distribution, process pipe, and aviation electronics in the United States to practice the Government-owned invention, U.S. Patent Application Serial Number 09/391,605 entitled ''Differential Pressure Flow Sensor.''

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than May 20, 2001.

ADDRESSES: Written objections are to be filed with Indian Head Division, Naval Surface Warfare Center, Code OC4, 101 Strauss Avenue, Indian Head, MD 20640–5035.

FOR FURTHER INFORMATION CONTACT: Dr. J. Scott Deiter, Head, Technology Transfer Office, Naval Surface Warfare Center Indian Head Division, Code 05T, 101 Strauss Avenue, Indian Head, MD 20640–5035, telephone (301) 744–6111.

Dated: May 1, 2001.

C.G. Carlson,

Major, U.S. Marine Corps, Alternate Federal Register Liaison Officer.

[FR Doc. 01–11820 Filed 5–9–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.330]

Notice To Correct Deadline for Intergovernmental Review

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Advanced Placement Incentive Program; Notice inviting applications for new awards for Fiscal Year (FY 2001; Notice to correct deadline for intergovernmental review).

SUMMARY: On April 23, 2001 (66 FR 20440–20442), the Department published a notice inviting applications for new awards for FY 2001. The notice established June 22, 2001 as the deadline for intergovernmental review. The Secretary corrects the deadline the intergovernmental review for the Advanced Placement Incentive Program grant competition.

DATES: The new deadline for intergovernmental review is August 6, 2001. The deadline for transmittal of applications remains June 7, 2001.

FOR FURTHER INFORMATION CONTACT: Frank B. Robinson, U.S. Department of Education, School of Improvement Programs, 400 Maryland Avenue, SW., Room 3C153, Washington, DC 20202–6140; Telephone (202) 260–2669. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

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 the following site: *www.ed.gov./legislation/FedRegister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at the previous site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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.*

Authority: 20 U.S.C. 7131.

Dated: May 4, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–11823 Filed 5–9–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–392–000]

ANR Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

May 4, 2001.

Take notice that on May 1, 2001, ANR Pipeline Company (ANR) tendered for filing as part of FERC GAS Tariff, Second Revised Volume No. 1, the following revised tariff sheet to be effective June 1, 2001.

Thirtieth Revised Sheet No. 17

ANR states that this filing represents ANR's annual report of the net revenues attributable to the operation of its cashout program. ANR proposes to decrease its currently effective cashout surcharge, from $0.3344 per Dth to $0.1508, pursuant to Section 15.5 of the General Terms and Conditions of its tariff.

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11785 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–12–000]

Arkansas Western Gas Company: Notice of Application for Rate Approval

May 4, 2001.

Take notice that on April 4, 2001, Arkansas Western Gas Company (AWGC) filed an application for rate approval, pursuant to Sections 284.224, and 284.123(b)(2) of the Commission's regulations, for rates to be charged for interruptible transportation services under its Order No. 63 blanket certificate. AWGC proposes a maximum interruptible rate for transportation on its northwest Arkansas system south of the Drake Compressor Station of $0.1278 per MMBtu, plus 3.57 percent reimbursement for compressor fuel, and lost and unaccounted for gas.

Pursuant to Section 284.1213(b)(2)(ii) of the Commission's regulations, if the Commission does not act within 150 days of the Application's filing date, the rates proposed therein will be deemed to be fair and equitable and not in excess of an amount that interstate pipelines would be permitted to charge for similar services. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before May 21, 2001. This petition for rate approval is on file with the commission and is available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically

via the internet in lieu of paper. See, 18 CFR 385.200(a)(1)(iii) and the instruction on the Commission's web site at *http://www.ferc.fed.us.efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11780 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–350–000]

Colorado Interstate Gas Company; Notice of Technical Conference

May 4, 2001.

In the Commission's order issued on April 25, 2001,[1] the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Tuesday, May 22, 2001, at 10 a.m., in a room to be designated, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend. If a second technical conference meeting is required, that meeting will take place on June 5, 2001, at 10 a.m., at the Commission, and a separate notice of that meeting will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–11783 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–391–000]

Discovery Gas Transmission, LLC; Notice of Cash-Out Report

May 4, 2001.

Take notice that on April 30, 3001, Discovery Gas Transmission LLC (Discovery) filed with the Commission its annual cash-out report for the calendar year ended December 31, 2000.

Discovery states that the cash-out report reflects a net gain for this period of $464,639.46. The cumulative gain from cash-out transactions is $165,959.11. This net gain, which is less than $400,000.00, will be carried forward to the subsequent reporting period.

Discovery states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before May 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 2020–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11784 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–398–000]

Eastern Shore Natural Gas Company; Notice of Interruptible Revenue Sharing Report

May 4, 2001.

Take notice that on May 1, 2001, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing its Interruptible Revenue Sharing Report pursuant to Section 37 of the General Terms and Conditions of its FERC Tariff.

Eastern Shore states that it intends to credit a total of $623,814, including interest of $44,270 to its firm transportation customers on July 1, 2001. The credit amount represents 90 percent of the net revenues received by Eastern Shore under Rate Schedule IT (in excess of the cost of service allocated to such rate schedule) for the period April 2000 through March 2001.

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 on or before May 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11770 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–399–000, CP99–94–004 and RP96–366–014]

Florida Gas Transmission Company; Notice of Compliance Filing

May 4, 2001.

Take notice that on May 1, 2001, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 2001:

Third Revised Sheet No. 56
Second Revised Sheet No. 67
Third Revised Sheet No. 541
Third Revised Sheet No. 542

FGT states that on June 2, 1999, FGT filed a Stipulation and Agreement of Settlement (Settlement) in Docket Nos. CP99–94–000 and RP96–366–000, et al. resolving all non-environmental issues in its Phase IV Expansion proceeding. The Commission issued an order approving the Settlement on July 30, 1999.

[1] Colorado Interstate Gas Co., 95 FERC ¶ 61,099 (2001).

FGT states that in the Settlement, among other provisions, that it would file revised tariff sheets prior to the in-service date of the proposed Phase IV Expansion to provide that firm transportation service under FT's Rate Schedule FTS–2 will reflect seasonal entitlements for four seasons. Currently, FTS–2 service includes defined levels of seasonal Maximum Daily Transportation Quantities (MDTQ) for only two seasonal periods: (1) November through April and (2) May through October. In the Settlement, the parties agreed to change the two seasons to four seasons: (1) October, (2) November through March, (3) April, and (4) May through September. Increasing the seasons to four allows FTS–2 service agreements to have the same seasonal periods as service agreements for firm transportation service under FGT's Rate Schedule FTS–1.

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11771 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–176–000, CP01–177–000, CP01–178–000, CP01–179–000]

Georgia Straits Crossing Pipeline LP.; Notice of Applications

May 4, 2001.

Take notice that on April 24, 2001, Georgia Straits Crossing Pipeline LP (GSX), P.O. 58900, Salt Lake City, Utah, 84158–0900, filed in Docket No. CP01–176–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct and operate a new interstate natural gas transmission system consisting of approximately 47 miles of related pipeline and related facilities in the state of Washington; in Docket No. CP01–177–000 an application for a blanket certificate authorizing Part 284 transportation; in Docket No. CP01–178–000 an application for a blanket certificate authorizing certain routine activities under Subpart F of Part 157; and in Docket No. CP01–179–000 an application for Section 3 siting authorization for export/import facilities and a Presidential Permit authorizing the construction, operation and maintenance of interconnect facilities for imports and exports at two locations on the US/Canadian international border, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

GSX proposes the construct: (1) a 10,302 horsepower (ISO rated) compressor station at Cherry Point, Whatcom County, Washington, located adjacent to an existing industrial area approximately a mile from the Strait of Georgia shoreline; (2) approximately 32 miles of 20-inch pipeline generally paralleling existing pipeline corridors from Sumas to the proposed Cherry Point compressor station; (3) approximately 15 miles of 16-inch pipeline from the Cherry Point compressor station to an offshore interconnect with a Canadian pipeline proposed to be built by GSX Canada Limited Partnership (GSX-Canada) from that interconnect to a delivery point into the distribution system of Central Gas British Columbia Inc. on Vancouver Island; (4) receipt point meter station facilities interconnecting with Westcoast Energy Inc. at the Canadian border and with Northwest Pipeline Corporation, both near Sumas; and (5) appurtenant facilities. GSX estimates the total cost of the proposed facilities at approximately $90.7-million.

GSX states that the initial firm design capacity of its system will be approximately 94,000 Dth per day. It is indicated that as a result of an open season, Powerex Corporation (Powerex), an affiliate of British Columbia Hydro and Power Authority (BC hydro), executed a binding precedent agreement for all of the initial certificated design capacity for a 30-year term, at negotiated rates. GSX avers that Powerex requires the capacity to meet the obligations of BC Hydro to supply natural gas fuel to two new generating plants on Vancouver Island. Further, GSX states that its system is designed to facilitate relatively inexpensive expansions, by compression upgrades, to accommodate future market growth on Vancouver Island and in northwestern Washington state.

GSX states that its proposal and that of GSX-Canada comprise the international Georgia Strait Crossing Project. GSX indicates that pursuant to the GSC Project Agreement between GSX and its sponsor, Williams Gas Pipeline Company (Williams), and GSX-Canada and its sponsor, British Columbia Hydro and Power Authority (BC Hydro), the owners have agreed to coordinate certain decisions regarding the construction and operation of GSX and GSX-Canada through a GSX Committee. GSX also states that subject to the owners and through the GSX Committee on matters within the committee's purview, GSX Operating Company, L.L.C., an wholly owned subsidiary of Williams, will design and engineer, manage the procurement and construction, operate and maintain and manage the day-to-day business affairs of both GSX and GSX-Canada pipeline, as a contractor for the owners.

GSX proposes a pro forma Tariff which includes its proposed Rate Schedules FT–1 for firm service and IT–1 for interruptible service. GSX proposes traditional cost-of-service based rates for its initial recourse rates. GSX states that its proposed rates reflect a 70% debt, 30% equity capital structure, 8% interest on debt, 14% return on equity and a 30 year depreciation life. GSX avers that its proposed rates are designed under the straight fixed variable methodology using a quantity/distance cost allocation to establish rates for two zones, one for mainland U.S. delivers and one for deliveries to GSX-Canada. GSX also states that the proposed initial recourse maximum daily reservation rates are $0.36546 per Dth of contract demand for service to mainland U.S. points and

$0.51233 per Dth of contract demand for service to the GSX-Canada interconnect.

GSX requests that the Commission issue a preliminary determination on the non-environmental aspects of the application by January 31, 2002 and a final order granting the requested certificate authorization by May 31, 2002 so that the project may be completed by the late October 2003 in-service date required to ensure Powerex's ability to meet the long-tern gas supply commitments of BC Hydro to the new electricity generation facilities on Vancouver Island.

Any questions regarding the application should be directed to Gary K. Kotter, Manger, Certificates, GSX Pipeline, L.L.C., P.O. Box 58900, Salt Lake City, Utah 84158–0900, (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before May 25, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be place on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding.

Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding.The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. The preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts form this proposal, it is important either to file comments or to intervene as early in the process as possible.

Also, comments protests, and interventions may be filed electronically via the internet in lieu of paper. See, CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–11773 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–397–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff and Request for Waiver

May 4, 2001.

Take notice that on May 1, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with an effective date of June 1, 2001:

Third Revised Sheet No. 8A
Tenth Revised Sheet No. 9
Second Revised Sheet No. 50A

Great Lakes states that these tariff sheets are being filed to add a provision to its tariff stating that any gas transported for others utilizing off-system capacity will be pursuant to its Part 284 open access tariff and will be subject to its Commission-approved rates. The provision also states that Great Lakes may pass through to the benefiting shipper(s) any amounts Great Lakes must pay to a third party to acquire this off-system capacity.

Great Lakes is requesting a generic waiver of the Commission's ''shipper must hold title'' policy to permit it to provide transportation for others on such acquired off-system capacity.

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web

site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11790 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–395–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2001.

Take notice that on May 1, 2001, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets to be effective June 1, 2001:

Fourteenth Revised Sheet No. 54
First Revised Sheet No. 54A
Twelfth Revised Sheet No. 61
Twelfth Revised Sheet No. 62
Twelfth Revised Sheet No. 63
Twelfth Revised Sheet No. 64
First Revised Sheet No. 300A
Fourth Revised Sheet No. 301
Second Revised Sheet No. 301A

Northern states that the revised tariff sheets are being filed in accordance with Section 53 of Northern's General Terms and Conditions, which requires Northern to adjust its fuel and Unaccounted for (UAF) gas percentages each June 1.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11788 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. RP01–396–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2001.

Take notice that on May 1, 2001 Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets to be effective June 1, 2001:

Fifth Revised Volume No. 1

56 Revised Sheet No. 50
57 Revised Sheet No. 51
24 Revised Sheet No. 52
54 Revised Sheet No. 53
Sixth Revised Sheet No. 56
16 Revised Sheet No. 59
Second Revised Sheet No. 59A
21 Revised Sheet No. 60
Second Revised Sheet No. 60A

Original Volume No. 2

164 Revised Sheet No. 1C
40 Revised Sheet No. 1C.a

Northern states that this filing is to revise Northern's rates, effective June 1, 2001, to reflect an adjustment for the return and tax components associated with the System Levelized Account (SLA) balance as of March 31, 2001.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11789 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–021]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rate

May 4, 2001.

Take notice that on May 1, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A., Fifteenth Revised Sheet No. 7 and Seventh Revised Sheet No. 7A GTN requests that these tariff sheets become effective May 1, 2001.

GTN states that these sheets are being filed to reflect the implementation of one negotiated rate agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

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). Comments, protests, and

interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11782 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–070]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate

May 4, 2001.

Take notice that on May 1, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective May 1, 2001.

Third Revised Sheet No. 8C
Original Sheet No. 8AI
Original Sheet No. 8AJ
Original Sheet No. 8AK
Original Sheet No. 8AL

REGT states that the purpose of this filing is to reflect the addition of four new negotiated rate contracts and the revision of an existing negotiated rate contract.

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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11781 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–15–001]

Texas Eastern Transmission, LP; Notice of Errata Filing

May 4, 2001.

Take notice that on May 1, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, substitute tariff sheets to be effective April 16, 2001 as listed on Appendix A to the filing.

Texas Eastern states that the purpose of this filing is to reflect the correction of certain typographical and ministerial errors in some of the Original Tariff Sheets filed in Docket No. GT01–15–000 on April 12, 2001 and Texas Eastern requests the Commission to permit the substitution of these substitute tariff sheets for those corresponding sheets filed on April 12.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions and that the filing will be posted in a downloadable format on Texas Eastern's Informational Postings Web site located at www.link.duke-energy.com.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 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). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)9ii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11779 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–394–000]

Texas Eastern Transmission, LP; Notice of Tariff Filing

May 4, 2001.

Take notice that on May 1, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheet proposed to be effective June 1, 2001:

First Revised Sheet No. 543

Texas Eastern states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the ''shipper must have title'' rule and a general statement that it will only transport for others on offsystem capacity pursuant to its existing tariff and rates.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11787 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–393–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

May 4, 2001.

Take notice that on May 1, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheet which sheets are enumerated in Appendix A attached to the filing.

Transco states that the purpose of the instant filing is track rate changes attributable to transportation service purchased from Dominion Transmission, Inc. (Dominion) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedules GSS and LSS, and to track the transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rates Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to the tracking provisions under Section 3 of Transco's Rate Schedule GSS, Section 4 of the Transco's Rate Schedule LSS and Section 4 of Transco's Rate Schedule FT–NT.

Transco states that included in Appendix B and C attached to the filing are the explanations and details regarding the computation of the Rate Schedule GSS, LSS and FT–NT rate changes.

Transco states that copies of the filing are being mailed to each of its GSS, LSS and FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11786 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–163–000, et al.]

Pinnacle West Energy Corporation, et al. Electric Rate and Corporate Regulation Filings

May 4, 2001.

Take notice that the following filings have been made with the Commission:

1. Pinnacle West Energy Corporation

[Docket No. EG01–163–000]

Take notice that on May 2, 2001, Pinnacle West Energy Corporation (PWE) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Withdrawal of its Application for Determination of Exempt Wholesale Generator (EWG) Status. PWE states that no parties have intervened or protested the PWE EWG Application, so no party will be prejudiced or otherwise affected by PWE's withdrawal.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. City of Vernon, California

[Docket No. EL00–105–004]

Take notice that on April 27, 2001, the City of Vernon, California (Vernon) tendered for filing, in compliance with the Commission's March 28, 2001 ''Order Accepting In Part And Rejecting In Part Compliance Filing'', 94 FERC ¶ 61,344, a revised Transmission Owner Tariff applicable to its activities as a Participating Transmission Owner.

Vernon states that copies of this filing have been served on each person designated on the official service list compiled by the Secretary in these proceedings.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Norton Energy Storage, L.L.C.

[Docket No. EL01–70–000]

Take notice that on April 26, 2001, Norton Energy Storage, L.L.C. (NES) filed with the Federal Energy Regulatory Commission a Petition for Declaratory Order pursuant to Section 385.207 of the Commission's Regulations, 18 CFR 385.207.

NES requests that the Commission declare that transactions involving the delivery of electric energy to NES' Compressed Air Energy Storage (CAES) generating facility (the NES Facility) for storage through the compression of air into a cavern for subsequent release through turbine generators to produce electric energy or ancillary services for sale or exchange at wholesale in interstate commerce are exclusively subject to the Commission's jurisdiction under Section 201 of the Federal Power Act, 16 U.S.C. §§ 824–825r (the FPA).

NES states that it is developing its CAES generating facility at the site of an abandoned limestone mine in the City of Norton, Summit County, Ohio, near Akron. NES represents that the NES Facility will eventually include 2,700 MW of capacity, to be constructed in individual increments of 300 MW. According to NES, the NES Facility will be the first compressed air energy storage project to be developed in North America as a merchant facility, and only the third CAES facility in the world. NES states that the NES Facility will employ an innovative technology that will allow NES to ''store'' electric energy produced in one period for delivery, resale and use during a later period, much as a pumped storage hydroelectric facility does.

NES states that the NES Facility's customers (including traditional public utilities, merchant generators and power marketers) will deliver electric energy to the NES Facility from time to time. This electric energy will be ''stored'' by compressing air into a sealed underground storage area. NES will maintain the injected air at high pressure until its controlled release through gas-fired turbine generators during peak electric demand periods. In this manner, according to NES, the NES

Facility will reclaim the ''compression power'' used to compress and store air, for purposes of generating electric energy for sale or exchange into wholesale markets. NES asserts that participants in electric energy markets will be able to use the NES Facility as a mechanism by which they can store electric energy obtained in wholesale markets during off-peak periods and exchange it for electric energy or ancillary services made available to wholesale markets during peak periods.

NES asks in its Petition that the Commission confirm that the various ways in which electric energy may be stored and exchanged through the medium of the NES Facility qualify as transactions involving the sale of electric energy and ancillary services for resale in interstate commerce, i.e., as ''electric service,'' as that term is defined at 18 CFR 35.2(a), subject exclusively to the Commission's FPA jurisdiction.

NES states that it is currently in the process of securing additional equity investors and arranging for the financing of the initial phase of its project. NES asserts that the financial markets, potential equity investors and would-be counter parties all require certainty as to how electric energy transactions involving the NES Facility will be treated for regulatory purposes. NES therefore asks that the requested declaratory order be issued by June 30, 2001.

NES states that it has served copies of its Petition upon representatives of FirstEnergy Corp. and American Electric Power, the public utilities with which it will be interconnected, and upon representatives of the Public Utilities Commission of Ohio and the Attorney General of Ohio. Questions concerning this filing may be directed to counsel for NES, James F. Bowe, Jr., Dewey Ballantine LLP, at (202) 429–1444, fax (202) 429–1579, or jbowe@deweyballantine.com.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Western Resources, Inc.

[Docket No. ER98–2157–002]

Take notice that on May 1, 2001, Western Resources, Inc. (Western) and its wholly-owned subsidiary, Kansas Gas and Electric Company (the Companies), tendered for filing the Affidavit of Dr. David B. Patton demonstrating that the Companies continue to satisfy the Commission requirements for market-based rate authority.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Company

[Docket No. ER99–35–004]

Take notice that on May 1, 2001, Boston Edison Company tendered for filing certain substitute rate schedule sheets to correct typographical errors in its First Revised Rate Schedule FERC No. 169 filed on April 26, 2001 in compliance with the Commission's order issued March 27, 2001 in this proceeding.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. ISO New England Inc.

[Docket No. ER01–316–002]

Take notice that on May 1, 2001, ISO New England Inc. tendered for filing its quarterly Index of Customers for its Tariff for Transmission Dispatch and Power Administration Services in accordance with the procedure specified in its filing letter in Docket No. ER01–316–000 dated November 1, 2000, and approved by Commission order issued December 29, 2000.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Consumers Energy Company

[Docket No. ER01–1910–000]

Take notice that on April 30, 2001 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with The Detroit Edison Company; Tenaska Power Services Co.; and Aquila Energy Marketing Corporation (Customers) under Consumers—FERC Electric Tariff No. 9 for Market Based Sales.

Consumers requested that the Agreements be allowed to become effective April 1, 2001.

Copies of the filing were served upon the Customers and the Michigan Public Service Commission.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ER01–1911–000]

Take notice that on April 30, 2001 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Engage Energy America LLC, (Customer) under Consumers—FERC Electric Tariff No. 9 for Market Based Sales.

Consumers requested that the Agreement be allowed to become effective April 1, 2001.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER01–1912–000]

Take notice that on April 30, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing an executed Generator Interconnection Agreement (GIA) to replace the unexecuted placeholder GIA that is part of the Generator Special Facilities Agreement (GSFA) between PG&E and Sunrise Cogeneration and Power Company (Sunrise) providing for Special Facilities and the parallel operation of Sunrise's generating facility and the PG&E-owned electric system that is on file with the Commission as Service Agreement No. 2 to PG&E Electric Tariff, Fourth Revised Volume No. 5.

Copies of this filing have been served upon Sunrise, the California Independent System Operator Corporation, and the CPUC.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Company

[Docket No. ER01–1913–000]

Take notice that on April 30, 2001, Idaho Power Company tendered for filing a revised long-term service agreement under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Nevada Power Company

[Docket No. ER01–1914–000]

Take notice that on April 30, 2001, Nevada Power Company (Nevada Power) tendered for filing an executed Service Agreement (Agreement) with the following Overton Power District No. 5 (Overton). The Agreement is an umbrella agreement which allows Overton to take service Under Nevada Power's FERC Electric Tariff, First Revised Volume No. 4, Electric Service Coordination Tariff (Tariff).

Nevada Power respectfully requests that the Service Agreement become effective April 1, 2001.

Copies of this filing were served upon the Public Utilities Commission of Nevada, and all interested parties.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Ameren Services Company

[Docket No. ER01–1915–000]

Take notice that on April 30, 2001, Ameren Services Company (ASC) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Ameren Energy, Inc. (customer). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to customer pursuant to Ameren's Open Access Tariff.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. RAMCO, Inc.

[Docket No. ER01–1916–000]

Take notice that on April 30, 2001, RAMCO, Inc. (Applicant), tendered for filing pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, an application for authorization to make sales of capacity, energy, and certain Ancillary Services at market-based rates; to reassign transmission capacity; and to resell firm transmission rights (FTRs).

Applicant proposes to own or lease and operate two approximately 44 MW simple-cycle, natural gas-fired combustion turbine peaking facilities located in San Diego County, Cities of Chula Vista and Escondido, California. Applicant is requesting waiver of the Commission's prior notice regulations as necessary to make its FERC Electric Tariff No. 1 effective as of May 1, 2001.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation

[Docket No. ER01–1917–000]

Take notice that on April 27, 2001, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC) tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated March 23, 2001 (the Service Agreement) between Allegheny Energy Supply Company, L.L.C. (Allegheny Energy) and OVEC. OVEC proposes an effective date of March 30, 2001 and requests waiver of the Commission's notice requirement to allow the requested effective date.

The Service Agreement provides for non-firm transmission service by OVEC to Allegheny Energy. In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

A copy of this filing was served upon Allegheny Energy.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Calpine Corporation

[Docket No. EL01–71–000]

Take notice that on April 27, 2001, Calpine Corporation (Calpine) submitted for filing a Petition for an Enforcement Action and/or Declaratory Order and Request for Expedited Treatment pursuant to Section 210(h)(2)(B) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C.A.§ 824a–3(h)(2)(B) (2000), and Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207.

Calpine alleges that Decision 01–03–067, issued by the California Public Utilities Commission (CPUC) on March 28, 2001 (Avoided Cost Decision), violates PURPA Section 210, 16 U.S.C. § 824a–3 which requires, inter alia, that rates for purchases from QFs shall not exceed incremental cost to the utility, nor shall those rates discriminate against qualifying cogenerators or small power producers. The Avoided Cost Decision changes the formula by which avoided cost rates are calculated.

This change violates PURPA, Calpine alleges, for three reasons: (i) The Avoided Cost Decision sets avoided costs in an arbitrary and unlawful manner, without any relationship whatsoever to the purchasing utility's ''full avoided costs,'' thus violating the PURPA avoided cost mandate; (ii) the Avoided Cost Decision subjects QFs to improper CPUC rate regulation, in contravention of PURPA and; (iii) the Avoided Cost Decision sets payments to QFs at price levels at which QFs cannot economically generate, contrary to the PURPA objective of encouraging generation. Calpine asks this Commission to institute an enforcement action and/or to issue a declaratory order, and requests that it do so using expedited treatment, to grant relief to the QFs from the Avoided Cost Decision.

Comment date: May 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Black Hills Corporation, n/k/a, Black Hills Power, Inc.

[Docket No. ER01–1918–000]

Take notice that on May 1, 2001, Black Hills Corporation, d/b/a Black Hills Power, Inc., a wholly-owned subsidiary of Black Hills Corporation, Inc. (a South Dakota holding corporation), tendered for filing the following long-term service agreements: (1) Surplus Energy Marketing Agreement Between Black Hills Power, Inc. and PacifiCorp Power Marketing, Inc., and (2) Exchange Agreement Between Black Hills Power, Inc., and PacifiCorp Power Marketing, Inc.

Copies of these filings were supplied to PacifiCorp Power Marketing, Inc.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Exelon Energy Company

[Docket No. ER01–1919–000]

Take notice that on May 1, 2001, Exelon Energy Company (Exelon Energy) tendered for filing to the Federal Energy Regulatory Commission (FERC or the Commission) a Notice of Succession notifying the Commission that it has succeeded to Unicom Energy, Inc. FERC Rate Schedule No. 1, which was approved by Commission order at Docket No. ER00–2429, as amended and supplemented, in conformance with Order No. 614. Exelon Energy also refiled the Unicom Energy rate schedule as an Exelon Energy rate schedule.

Unicom Energy, Inc. has changed its name to Exelon Energy Company as part of an internal restructuring in which its operations were combined with PECO Energy Company d/b/a Exelon Energy, a successor to Horizon Energy Company. Accordingly, Exelon Energy Company hereby cancels the power sales tariff of Horizon Energy Company and has filed a Notice of Cancellation of the Horizon Energy rate schedule as part of this filing.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Idaho Power Company

[Docket No. ER01–1920–000]

Take notice that on May 1, 2001, Idaho Power Company tendered for filing a revised long-term service agreement under its open access transmission tariff in the above-captioned proceeding.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. PacifiCorp Power Marketing, Inc.

[Docket No. ER01–1921–000]

Take notice that on May 1, 2001, PacifiCorp Power Marketing, Inc. tendered for filing with the Federal Energy Regulatory Commission an Exchange Agreement between Black Hills Power, Inc. and PacifiCorp Power Marketing, Inc., dated as of April 3, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Tucson Electric Power Company

[Docket No. ER01–1922–000]

Take notice that on May 1, 2001, Tucson Electric Power Company tendered for filing one (1) umbrella service agreement (for short-term firm service) and one (1) service agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

1. Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of January 30, 2001 by and between Tucson Electric Power Company and Colorado River Commission—FERC Electric Tariff Vol. No. 2, Service Agreement No. 155. No service has commenced at this time.

2. Form of Service Agreement for Non-Firm Point-to-Point Transmission Service dated as of January 30, 2001 by and between Tucson Electric Power Company and Colorado River Commission—FERC Electric Tariff Vol. No. 2, Service Agreement No. 156. No service has commenced at this time.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. American Electric Power Service Corporation

[Docket No. ER01–1923–000]

Take notice that on May 1, 2001, American Electric Power Service Corporation tendered for filing a letter agreement between Appalachian Power Company and Panda Culloden Power, L.P.

AEP requests an effective date of June 29, 2001.

Copies of Appalachian Power Company's filing have been served upon the West Virginia Public Service Commission.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. UNITIL Power Corp.

[Docket No. ER01–1925–000]

Take notice that on May 1, 2001, UNITIL Power Corp. tendered for filing pursuant to Schedule II Section H of Supplement No. 1 to Rate Schedule FERC Number 1, the UNITIL System Agreement, the following material:

1. Statement of all sales and billing transactions for the period January 1, 2000 through December 31, 2000 along with the actual costs incurred by UNITIL Power Corp. by FERC account.

2. UNITIL Power Corp. rates billed from January 1, 2000 to December 31, 2000 and supporting rate development.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. New England Power Pool

[Docket No. ER01–1926–000]

Take notice that on May 1, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing for acceptance materials to permit NEPOOL to expand its membership to include Axia Energy, L.P. (Axia) and to terminate the memberships of Entergy Power Marketing Corporation (EPMC) and Koch Energy Trading, Inc. NEPOOL requests a February 1, 2001 effective date for the commencement of Axia's participation in and the termination of EPMC and KETI from NEPOOL.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Southern California Edison Company

[Docket No. ER01–1927–000]

Take notice that on May 1, 2001, Southern California Edison Company (SCE) tendered for filing the Interconnection Facilities Agreement (Interconnection Agreement) between SCE and the City of Riverside (Riverside).

This agreement specifies the terms and conditions pursuant to which SCE will construct certain interconnection facilities to facilitate the wholesale Distribution Service SCE provides to Riverside pursuant to SCE's Wholesale Distribution Access Tariff, FERC Electric Tariff Original Volume No. 5.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Riverside.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Central Maine Power Company

[Docket No. ER01–1928–000]

Take notice that on May 1, 2001, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (the Commission) regulations, 18 C.F.R. § 35.12, (i) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and S.D. Warren Company (S.D. Warren), and (ii) an unexecuted Form of Service Agreement for Non-Firm Local Point-to-Point Transmission Service between CMP and Engage Energy America LLC (Engage), designated as Original Service Agreements 123 and 124, respectively, to CMP's FERC Electric Tariff, Fifth Revised Volume No. 3.

CMP is requesting that these unexecuted transmission service agreements become effective March 30, 2001.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, S.D. Warren, and Engage.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1929–000]

Take notice that on May 1, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and National Electric Associates, LP, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 21.

GPU Energy requests that cancellation be effective June 27, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1930–000]

Take notice that on May 1, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as ''GPU Energy'') submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Federal Energy Sales, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 41.

GPU Energy requests that cancellation be effective the June 27, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1931–000]

Take notice that on May 1, 2001, Jersey Central Power & Light Company,

Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as ''GPU Energy'') submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service, Inc. and The Power Company of America, LP, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 64.

GPU Energy requests that cancellation be effective June 27, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1932–000]

Take notice that on May 1, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Energy and Wheeled Electric Power Company, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 90.

GPU Energy requests that cancellation be effective June 27, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1933–000]

Take notice that on May 1, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and MidCon Power Services Corporation (now Kinder Morgan, Inc.), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 19.

GPU Energy requests that cancellation be effective June 27, 2001.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. Ameren Services Company

[Docket No. ER01–1934–000]

Take notice that on April 30, 2001, Ameren Services Company (ASC) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Axia Energy, Inc. (customer). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to customer pursuant to Ameren's Open Access Tariff.

ASC respectfully requests that the Service Agreement become effective April 1, 2001.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

32. New England Power Pool

[Docket No. ER01–1935–000]

Take notice that on May 1, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include Dominion Retail, Inc. (DRI), Exelon Generation Company, LLC (Exelon); Indeck Energy-Alexandria, LLC (IEA), and Massachusetts Public Interest Research Group, Inc. (MASSPIRG).

The Participants Committee requests an effective date of May 1, 2001 for commencement of participation in NEPOOL by DRI, Exelon, and MASSPIRG, and July 1, 2001 for the commencement of participation in NEPOOL by IEA.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

33. Florida Power Corporation

[Docket No. ER01–1924–000]

Take notice that on May 1, 2001, Florida Power Corporation (Florida Power), tendered for filing revisions to the capacity charges, reservation fees and energy adders for various interchange services provided by Florida Power pursuant to interchange contracts as follows:

Rate schedule	Customer
65	Southeastern Power Administration.
80	Tampa Electric Company.
81	Florida Power & Light Company.
82	City of Homestead.
86	Orlando Utilities Commission.
88	Gainesville Regional Utility.
91	Jacksonville Electric Authority.
92	City of Lakeland.
94	Kissimmee Utility Authority.
95	City of St. Cloud.
101	City of Lake Worth.
102	Florida Power & Light Company.
103	City of Starke.
104	City of New Smyrna Beach.
105	Florida Municipal Power Agency.
108	City of Key West.
119	Reedy Creek Improvement District.
122	City of Tallahassee.
128	Seminole Electric Cooperative, Inc.
139	Oglethorpe Power Corporation.
141	City of Vero Beach.
142	Big Rivers Electric Corporation.
148	Alabama Electric Cooperative, Inc.
153	Enron Power Marketing, Inc.
154	Catex Vitol Electric, L.L.C.
155	Louis Dreyfus Electric Power, Inc.
156	Electric Clearing House, Inc.
157	LG&E Power Marketing, Inc.
158	MidCon Power Service Corp.
159	Koch Power Services Company.
161	Citizens Lehman Power Sales.
162	AES Power, Inc.
163	Intercoast Power Marketing Company.
164	Valero Power Service Company.
167	NorAm Energy Services, Inc.
168	Western Power Services.
169	CNG Power Services Corporation.
170	Calpine Power Services Company.
171	SCANA Energy Marketing, Inc.
172	PanEnergy Trading & Market Services.
173	Coral Power, L.L.C.
174	Aquila Power Corporation.
175	The Energy Authority, Inc.
176	NP Energy Inc.
177	Morgan Stanley Capital Group, Inc.

The interchange services which are affected by these revisions are (1) Service Schedule A—Emergency Service; (2) Service Schedule B—Short Term Firm Service; (3) Service Schedule D—Firm Service; (4) Service Schedule F—Assured Capacity and Energy Service; (5) Service Schedule G—Backup Service; (6) Service Schedule H—Reserve Service; (7) Service Schedule l—Regulation Service; (8) Service Schedule OS—Opportunity Sales; (9) Service Schedule RE—Replacement Energy Service; (10) Contract for Assured Capacity and Energy With Florida Power & Light Company; (11) Contract for Scheduled Power and Energy with Florida Power & Light Company.

Florida Power also is tendering changes to the real power loss factors under its Open Access Transmission Tariff (OATT) and the OATT of Carolina Power & Light Company.

Florida Power requests that the amended revised capacity charges,

reservation fees and energy adder be made effective on May 1, 2001. Florida Power requests waiver of the Commission's sixty-day notice requirement. If waiver is denied, Florida Power requests that the filing be made effective 60 days after the filing date.

Copies of the filing were served on each of the customer affected by this filing.

Comment date: May 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–11769 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–92–000, et al.]

TransAlta USA Inc., et al.; Electric Rate and Corporate Regulation Filings

May 3, 2001.

Take notice that the following filings have been made with the Commission:

1. TransAlta USA Inc. and Gener S.A.

[Docket No. EC01–92–000]

Take notice that on April 26, 2001, TransAlta USA Inc. (TAUSA) and Gener S.A. (Gener) (collectively Applicants) tendered for filing, pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), and Part 33 of the Commission's Regulations (18 CFR 33.1, *et seq.*), an Application for Commission approval for the sale by Gener, and the purchase by TAUSA, of fifty percent of the capital stock in Merchant Energy Group of the Americas, Inc. (MEGA), which owns certain jurisdictional rate schedules. Upon consummation of the proposed transaction, MEGA will be a wholly-owned subsidiary of TAUSA.

Comment date: May 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

Docket Nos. ER01–770–002 and ER01–917–002 (not consolidated)

Take notice that on April 30, 2001, Arizona Public Service Company (APS) tendered for filing an Amendment to the ANPP Valley Transmission System Participation Agreement between APS, Salt River Project Agricultural Improvement and Power District, Public Service Company of New Mexico, and El Paso Electric Company.

APS states that the Amendment to the ANPP Participation Agreement is being submitted in compliance with the Commission's separate Letter Orders, issued on February 28, 2001, in the above-captioned dockets.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER01–1152–001]

Take notice that on April 30, 2001, PacifiCorp tendered for filing an amendment to its January 30, 2001 filing of a revised Exhibit C to the contract for Interconnections and Transmission Service between PacifiCorp and Western Area Power Administration (Western), Contract No. 14–06–400–2436, Supplement No. 2 (PacifiCorp's Rate Schedule FERC No. 262). The revisions modify the rates charged to Western for Block 2 transmission service.

PacifiCorp has requested an effective date of April 1, 2001.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. PJM Interconnection, L.L.C.

[Docket No. ER01–1889–000]

Take notice that on April 30, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing (i) an agreement for network integration transmission service with Allegheny Electric Cooperative (Allegheny); and (ii) an agreement for network integration transmission service for Easton Utilities Commission (Easton).

Copies of this filing were served upon Allegheny, Easton, and the state commissions within the PJM control area.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Dominion Nuclear Marketing II, Inc.

[Docket Nos. ER01–1890–000]

Take notice that on April 30, 2001, Dominion Nuclear Marketing II, Inc. (DNM II) tendered for filing service agreements providing for sales of power to Duke Energy Trading and Marketing, L.L.C. (DETM) and Constellation Power Source, Inc. (Constellation) (collectively, the Customers) under DNM II's market-based rate sales tariff, FERC Electric Tariff, Original Volume No. 1 (the Tariff). DNM II requests that the Commission make the service agreements for DETM and Constellation effective on April 1, 2001.

Copies of the filing were served upon the Customers, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Pool

[Docket No. ER01–1891–000]

Take notice that on April 30, 2001, the New England Power Pool (NEPOOL) tendered for filing changes to the New England Power Pool Restated Open Access Transmission Tariff, a related Implementation Rule and a Market Rule to make conforming changes for the implementation of three-part bidding and Net Commitment Period Compensation. A July 1, 2001 effective date is requested.

NEPOOL states that copies of these materials were sent to the NEPOOL Participants and the six New England state governors and regulatory commissions.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Michigan Electric Transmission Company and Consumers Energy Company

[Docket No. ER01–1892–000]

Take notice that on April 30, 2001, Consumers Energy Company (Consumers) tendered for filing a Notice of Cancellation regarding former OATT

customers whose transmission service agreements terminated by their own terms, effective December 31, 2000; and Michigan Electric Transmission Company (Michigan Transco) tendered for filing five revised tariff sheets for its Open Access Transmission Tariff, Michigan Transco Electric Tariff FERC No. 1, with a proposed effective date of April 1, 2001. The tariff sheets are to reflect changes in the Indices of Customers related to Consumers' Notice of Cancellation and to correct certain typographical errors. The revised sheets that were filed are First Revised Sheet Nos. 69, 106, 116, 170 and 171.

The filing was served upon the Michigan Public Service Commission, those listed in the Notice of Cancellation, and customers under Michigan Transco's OATT.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1893–000]

Take notice that on April 27, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Global Petroleum Corporation (now Global Companies LLC), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 36. GPU Energy requests that cancellation be effective the 27th day of June 2001.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER01–1894–000]

Take notice that on April 30, 2001, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an Interconnection Agreement between Niagara Mohawk Power Corporation and Athens Generating Company, L.P. for a 1230 MW (winter rating) natural gas-fired combined cycle combustion turbine generating facility that is to be constructed in the Town of Athens, Greene County, New York, dated as of April 27, 2001. The filing is designated as FERC Electric Rate Schedule No. 307.

An Interconnection Agreement effective date of May 15, 2001 is requested and to the extent necessary, Niagara Mohawk requests waiver of any Commission requirement that a rate schedule be filed not less than 60 days or more than 120 days from its effective date.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER01–1896–000]

Take notice that on April 27, 2001, Tampa Electric Company (Tampa Electric) tendered for filing updated transmission service rates under its agreements to provide qualifying facility transmission service for Mulberry Phosphates, Inc. (Mulberry), Cargill Fertilizer, Inc. (Cargill), and Auburndale Power Partners, Limited Partnership (Auburndale).

Tampa Electric proposes that the updated transmission service rates be made effective as of May 1, 2001, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Mulberry, Cargill, Auburndale, and the Florida Public Service Commission.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. EOPT Power Group Nevada, Inc.

[Docket No. ER01–1897–000]

Take notice that on April 26, 2001, EOPT Power Group Nevada, Inc. tendered for filing for acceptance of its Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain of the Commission's Regulations.

Comment date: May 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Tampa Electric Company

[Docket No. ER01–1898–000]

Take notice that on April 27, 2001, Tampa Electric Company (Tampa Electric) tendered for filing updated caps on energy charges for emergency assistance service provided under its interchange service contract with Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies).

Tampa Electric requests that the updated caps on charges be made effective as of May 1, 2001, and therefore requests waiver of the Commission's notice requirement.

Tampa Electric states that a copy of the filing has been served upon Southern Companies and the Florida Public Service Commission.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Zapco Power Marketers, Inc.

[Docket No. ER01–1899–000]

Take notice that on April 26, 2001, Zapco Power Marketers, Inc. tendered for filing a Notice of Termination.

Notice is hereby given that effective April 12, 2001 Rate Schedule FERC No. ER98–689–000 effective date December 29, 1997 and filed with the Commission is to be canceled because Zapco has been inactive since it filed with the Commission and has been dissolved as of April 12, 2001.

Notice of the proposed cancellation has not been served upon any public utilities since there are no affected purchasers.

Comment date: May 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Electric Power Service Corporation

[Docket No. ER01–1900–000]

Take notice that on April 30, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing executed Interconnection and Operation Agreement between Columbus Southern Power Company and Duke Energy Franklin LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of June 25, 2001.

A copy of the filing was served upon the Ohio Public Utilities Commission.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER01–1901–000]

Take notice that on April 30, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing an amendment to Rate Schedule No. 13, a Contract for Interconnections and Transmission Service Between Deseret and the United States Department of Energy, Western Area Power Administration, Contract No. 2–07–40–P0716, dated November 10, 1982.

Deseret requests an effective date of April 1, 2001. Copies of this filing have been served on the Western Area Power Administration.

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER01–1902–000]

Take notice that on April 27, 2001, Southern Company Services, Inc., as agent for Georgia Power Company (Georgia Power), tendered for filing the Interconnection Agreement between Georgia Power and Augusta Energy LLC (Augusta Energy) (the Agreement), as a service agreement under Southern Operating Companies' Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5) and is designated as Service Agreement No. 376.

The Agreement provides the general terms and conditions for the interconnection and parallel operation of Augusta Energy's electric generating facility located near Augusta, Richmond County, Georgia. The Agreement terminates forty (40) years from the effective date unless terminated earlier by mutual written agreement.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. American Electric Power Service Corporation

[Docket No. ER01–1903–000]

Take notice that on April 30, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing executed Interconnection Agreements between (1) West Texas Utilities Company and Indian Mesa Power Partners I LP and (2) West Texas Utilities Company and Indian Mesa Power Partners II LP. The agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEPSC requests an effective date of June 26, 2001 for each of the Interconnection Agreements. A copy of the filing was served upon the Public Utility Commission of Texas (PUCT).

Comment date: May 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Virginia Electric and Power Company

[Docket No. ER01–1904–000]

Take notice that on April 27, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) tendered for filing the following:

1. Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Axia Energy, LP designated as Service Agreement No. 318 under the Company's FERC Electric Tariff, Second Revised Volume No. 5;

2. Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Axia Energy, LP designated as Service Agreement No. 319 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000. Under the tendered Service Agreements, Dominion Virginia Power will provide point-to-point service to Axia Energy, LP under the rates, terms and conditions of the Open Access Transmission Tariff. Dominion Virginia Power requests an effective date of April 27, 2001, the date of filing of the Service Agreements.

Copies of the filing were served upon Axia Energy, LP, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Pacific Gas and Electric Company

[Docket No. ER01–1905–000]

Take notice that on April 27, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Notice of Termination of the Power Plant Operations Agreement between Pacific Gas and Electric Company and Central California Power Agency No. 1 for the Coldwater Creek Geothermal Power Plant, PG&E Rate Schedule FERC No. 119.

Copies of this filing have been served upon Central California Power Agency No. 1, the California System Operator Corporation (ISO) and the California Public Utilities Commission.

PG&E has requested certain waivers.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. UtiliCorp United Inc.

[Docket No. ER01–1906–000]

Take notice that on April 27, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing Service Agreement No. 103 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 25, a short-term firm point-to-point transmission service agreement between UtiliCorp's WestPlains Energy-Kansas division and Service Agreement No. 108 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 24 and Axia Energy, L.P.

UtiliCorp requests an effective date for the service agreement of April 12, 2001.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Ameren Services

[Docket No. ER01–1907–000]

Take notice that on April 27, 2001, Ameren Services Company (ASC) tendered for filing an Illinois Retail Network Integration Transmission Service Agreement and Illinois Retail Network Operating Agreement between ASC and Edgar Electric Cooperative Association d/b/a EnerStar Power Corp. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to unbundled Illinois retail customers of EnerStar Power Corp. pursuant to Ameren's Open Access Tariff.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Upper Peninsula Power Company

[Docket No. ER01–1908–000]

Take notice that on April 27, 2001, Upper Peninsula Power Company (UPPCO) tendered for filing a Supplement to Agreement for Wholesale Electric Power Service between UPPCO and the City of Escanaba, Michigan (Escanaba) (UPPCO Rate Schedule FERC No. 26). UPPCO states that the Supplement reduces the amount of firm power that it is obligated to provide to Escanaba during the Summer of 2001.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Tucson Electric Power Company

[Docket No. ER01–1909–000]

Take notice that on April 27, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for Short-Term Firm Service) and one (1) Service Agreement (for Non-Firm Service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows:

1. Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of April 9, 2001 by and between Tucson Electric Power Company and Salt River Project, Transmission & Generation Dispatching—FERC Electric Tariff Vol. No. 2, Service Agreement No. 166–A. No service has commenced at this time.

2. Form of Service Agreement for Non-Firm Point-to Point Transmission Service dated as of April 9, 2001 by and between Tucson Electric Power Company and Salt River Project, Transmission & Generation Dispatching—FERC Electric Tariff Vol. No. 2, Service Agreement No. 167. No service has commenced at this time.

Comment date: May 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11768 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

May 4, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No: 2609–021.

c. Date Filed: March 28, 2001.

d. Applicants: Curtis/Palmer Hydroelectric Company, LP International Paper Company (Transferors), an Curtis/Palmer Hydroelectric Company, LP (Transferee).

e. Name and Location of Project: The Curtis/Palmer Hydroelectric Project is located on the Hudson River in Saratoga and Waren Counties, New York.

f. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

g. Applicant Contact: Mr. William J. Madden, Jr. and John A. Whittaker, IV, attorneys for the transferors, Winston and Strawn, 1400 L Street NW., Washington, DC 20005–3502, (202) 371–5700.

h. FERC Contact: Any questions on this notice should be addressed to Mr. Lynn R. Miles at (202) 219–2671.

i. Deadline for filing comments and or motions: June 11, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–2609–021) on any comments or motions filed.

j. Description of Proposal: Curtis/Palmer Hydroelectric Company, LP (CPHC) and International Paper Company (IPC), co-licensees, request Commission approval for a partial transfer of the license for the project from CPHC and IPC CPHC as sole licensee. CPHC is a New York limited partnership and all of the interests in the partnership are currently held by subsidiaries of IPC.

k. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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, .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 Services of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Direct, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any 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.

David P. Boergers,

Secretary.

[FR Doc. 01–11772 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 4, 2001.

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.: 11895–000.

c. Date filed: February 20, 2001.

d. Applicant: Malad High Drop Hydropower, Inc.

e. Name and Location of Project: The Malad High Drop Hydropower Project would be located on the Malad River in Gooding County, Idaho.

f. Filed Pursuant to: Federal Power Act, 16 USC §§ 791(a)–825(r).

g. Applicant contacts: Mr. Rodney Smith or Mr. Silvio Coletti, Malad High Drop Hydropower, Inc., 2727 Merrimac Place, Boise, ID 83709, (208) 562–1527, fax (208) 562–8664.

h. FERC Contact: Tom Papsidero, (202) 219–2715.

i. Deadline for filing comments, protests, and motions to intervene: 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. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://wwww.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11895–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of the document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. Description of Project: The proposed project, using the existing Thorpe and Justice Ditch dams, would consist of: (1) A 600-foot-long, 47-inch-diameter steel penstock; (2) a concrete powerhouse containing two generating units with a total installed capacity of 4.5 megawatts: (3) a one-mile-long, 138–kV transmission line; and (4) appurtenant facilities. The project would have an average annual generation of 22.2 GWh.

k. A copy of the publication is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. 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 4.30(b) and 4.36.

m. 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. 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 4.30(b) and 4.36.

n. 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.

o. 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.

p. 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, .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.

q. Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''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, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, 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.

r. 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 any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–11775 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing and Soliciting Motions To Intervene and Protests

May 4, 2001.

Take notice that the following hydroelectric application and Applicant Prepared Environmental Assessment (APEA) has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License (Non-power).

b. *Project No.:* 2852–015.

c. *Date filed:* February 27, 2001.

d. *Applicant:* New York State Electric & Gas Corporation.

e. *Name of Project:* Keuka Project.

f. *Location:* The project is located on the Waneta and Lamoka Lakes, Keuka

Lake, and Mud Creek, in Steuben and Schuyler Counties, New York. The project would not utilize any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert L. Malecki; Manager, Licensing & Environmental Operations; New York State Electric & Gas Corporation; Corporate Drive, Kirkwood Industrial Park; Binghamton, NY 13902, (607) 762–7763; and Ms. Carol Howland, Project Environmental Specialist; New York State Electric & Gas Corporation; Corporate Drive, Kirkwood Industrial Park; Binghamton, NY 13902, (607) 762–8881.

i. *FERC Contact:* Any questions on this notice should be addressed to William Guey-Lee, E-mail address william. guylee@ferc.fed.us, or telephone (202) 219–2808.

j. *Deadline for filing motions to intervene and protests:* July 9, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* The application is not ready for environmental analysis at this time. A subsequent notice will be issued stating that the application is ready for environmental analysis and will request comments, reply comments, recommendations, terms and conditions, and prescriptions at that time.

l. *Description of Project:* The project consists of the following: (1) The Bradford Dam with an overall length of about 580 feet and crest elevation of 1,099 feet msl, consisting of a concrete section, earthen embankments, outlet works, and spillway; (2) Waneta and Lamoka Lakes with surface areas of 781 acres and 826 acres at elevation 1,099 feet msl, and total storage of 27,200 acre-feet; (3) a 9,30-foot-long power canal having an average width of 48 feet and an average depth of 3 feet; (4) a twin gated concrete box culvert, know as Wayne Gates, measuring 8 feet high by 6 feet wide; and (5) a 70-foot-long by 16-foot-high headgate structure. Under the non-power license, the 3,450-foot-long, 4-foot-diameter concrete penstock, the 835-foot-long, 42-inch-diameter steel penstock, and the 2.0-MW generating unit would be removed.

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 the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. *Protests or Motions to Intervene:* Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 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 and APEA.

o. *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 and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application and APEA 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: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to: Director, Division of Environmental and Engineering Review, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–11776 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of Licenses and Substitution of Relicense Applicant, and Soliciting Comments, Protests, and Motions To Intervene

May 4, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Types:* (1) Transfer of Licenses and (2) Request for Substitution of Applicant for New License (in Project No. 2694–002).

b. *Project Nos:* 2601–004, 2602–002, 2603–009, 2619–006, 2686–024, 2692–025, 2694–002, 2694–005, and 2698–025.

c. *Date Filed:* April 17, 2001.

d. *Applicant:* Duke Power, a division of Duke Energy Corporation, Nantahala Area (transferee).

e. *Name and Location of Projects (all in North Carolina):* The Bryson Project No. 2601 is located on the Oconaluftee River in Swain County. The Dillsboro Project No. 2602 is located on the Tuckasegee River in Jackson County. The Franklin Project No. 2603 is located on the Little Tennessee River in Macon County. The Mission Project No. 2619 is located on the Hiwassee River in Clay County. The West Fork Project No. 2686 is located on the West Fork of the Tuckasegee River in Jackson County. The Nantahala Project No. 2692 is located on the Nantahala River, Dicks Creek, and White Oak Creek in Clay and Macon Counties. The Queens Creek Project No. 2694 is located on Queens Creek in Macon County. The East Fork Project No. 2698 is located on the East Fork of the Tuckasegee River in Jackson County. These projects do not occupy federal or tribal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Mr. Paul Kinney, Law Department, Duke Power, P.O. Box 1244, Charlotte, NC 28201–1244, (704) 373–6609, and Mr. John A. Whittaker, IV, Winston & Strawn, 1400 L Street NW, Washington, DC 20005, (202) 371–5766.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments and or motions:* June 11, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the noted project numbers on any comments or motions filed.

j. *Description of Proposal:* Nantahala Power and Light Company (Nantahala), the original licensee of these projects, has merged into Duke Energy Corporation (Duke) and no longer exists. Duke now seeks after-the-fact approval of the transfer of the licenses from Nanatahala to Duke, as well as a name change to Duke Power, a division of Duke Energy Corporation, Nantahala Area. (In response to a notice filed by Duke on May 12, 2000, the Commission inadvertently issued, on June 28, 2000, an order changing the name of the licensee to Nantahala Power and Light, a division of Duke Energy Corporation. *See* 91 FERC ¶ 62,235, which of course lacked the prerequisite step of Commission approval for transfer of the project licenses to Duke.)

The transfer application was filed within five years of the expiration of the licenses all of these projects. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 Fed. Reg. 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31438 n. 318).

The transfer application also contains a separate request for the substitution of Duke Power, a division of Duke Energy Corporation, Nantahala Area for Nantahala Power and Light, a division of Duke Energy Corporation as the applicant in the pending relicensing application, filed on September 27, 1999, in Project No. 2694–002.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

1. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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, .214. In determining the appropriate action to take, the Commission will consider all protests or other commenters 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'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any 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.

David P. Boergers,

Secretary.

[FR Doc. 01–11777 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

May 4, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 8315–005.

c. *Date Filed:* April 2, 2001.

d. *Applicant:* International Paper Company (Transferee).

e. *Name of project:* Sartell.

f. *Location:* On the Mississippi River near Sartell, Stearns and Benton Counties, Minnesota. The project does not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* William J. Madden, Jr., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502, (202) 371–5700; Michael Chapman, Esq., International Paper Company, 6400 Poplar Ave., Memphis, TN 38197, (901) 763–5888.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing comments or motions:* June 22, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washignton, DC 20426. Comments, motions to intervene, and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the Project Number (8315–005) on any comments or motions filed.

k. *Description of Transfer:* Champion International Corporation (Champion/Transferor), formerly a wholly-owned subsidiary of International Paper Company (IPC/Transferee), has merged into IPC and no longer exists. IPC seeks Commission approval to transfer the license for the Sartell Project from Champion to IPC.

l. *Location 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. This filing may be

viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *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, .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.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *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.

David P. Boergers,

Secretary.

[FR Doc. 01–11778 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

May 4, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. CP04–49–000, 04–23–01, Bobbye Biller
2. Project Nos. 10865 and 11495, 04–23–01, Steven W. Reneaud
3. Project No. 18, 04–23–01, Scott Larrando
4. Project No. 2899–000, 04–23–01, Scott Lorrando
5. CP01–49–000, 04–24–01, Douglas Sipe
6. Project No. 1494, 04–25–01, Joanne Mallet-Eakin
7. CP00–6–000, 04–25–01, James J. Slack
8. Project No. 2042, 04–25–01, Frank Winchell
9. Project No. 2042, 04–24–01, Tim Bachelder

David P. Boergers,

Secretary.

[FR Doc. 01–11774 Filed 5–9–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6977–1]

Notice of Agency Information Collection Activities for Superfund Cooperative Agreements and State Contracts

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that U.S. Environmental Protection Agency is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Cooperative Agreements and State Contracts for Superfund Response Actions (OMB Control No. 2010–0020; EPA ICR No. 1487.06) expiring September 30, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 9, 2001.

ADDRESSES: Send comments to Kirby Biggs, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, Mail Code 5204G, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–8506, e-mail: Biggs.Kirby@epa.gov

FOR FURTHER INFORMATION CONTACT: Kirby Biggs, at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected are those States, Federally recognized Indian tribes, and political subdivisions that apply to EPA for financial assistance under a Superfund cooperative agreement or a Superfund State Contract.

Title: Cooperative Agreements and Superfund Contracts for Superfund Response Actions (OMB Control No.

2010–0020; EPA ICR No. 1487.06) expiring 09/30/01.

Abstract: This ICR authorizes the collection of information under 40 CFR part 35, subpart O, which establishes the administrative requirements for cooperative agreements funded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for State, political subdivisions, and Federally recognized Indian tribal government response actions. This regulation also codifies the administrative requirements for Superfund State Contracts for non-State lead remedial responses. This regulation includes only those provisions mandated by CERCLA, required by OMB Circulars, or added by EPA to ensure sound and effective financial assistance management. The information is collected from applicants and/or recipients of EPA assistance and is used to make awards, pay recipients, and collect information on how Federal funds are being spent. EPA requires this information to meet its Federal stewardship responsibilities. Recipient responses are required to obtain a benefit (federal funds) under 40 CFR part 31, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments' and under 40 CFR part 35, ''State and Local Assistance.'' 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 would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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).

Burden Statement: The current annual reporting and record keeping burden for this collection is estimated to average 11.58 hours per response. The current estimated number of annual respondents is 361 and the estimated total annual hour burden is 4,182 hours. The frequency of response is as required. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments regarding these matters, or any other aspect of this information collection, including suggestions for reducing the burden to the address listed above.

Dated: May 4, 2001.

Steve Caldwell,

Acting Director, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response, Office of Solid Waste and Remedial Response.

[FR Doc. 01–11833 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[IL–202; FRL–6976–9]

Adequacy Status of the Metro East St. Louis, IL, Submitted Ozone Attainment State Implementation Plan for Transportation Conformity Purposes; Notice of Withdrawal of Adequacy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of adequacy.

SUMMARY: EPA has decided to withdraw our finding of adequacy and find inadequate the motor vehicle emissions budgets in the Metro East St. Louis, Illinois, ozone attainment demonstration State Implementation Plan (SIP) submitted on November 15, 1999, and supplemented on February 10, 2000. We are withdrawing our adequacy finding due to a recent court decision. The United States Court of Appeals for the District of Columbia Circuit decided on August 30, 2000, that the implementation of the Nitrogen Oxides (NO_X) SIP Call rule could not be required before May 31, 2004. The emission levels in the St. Louis attainment demonstration SIP were based on the assumption that transport of ozone precursors into St. Louis from upwind states would be addressed by May 2003 pursuant to EPA's NO_X SIP Call. Without these regional NO_X SIP Call controls in place in 2003, the Metro East St. Louis area will not be able to demonstrate attainment as described in the submitted SIP. For this reason, the motor vehicle emissions budgets for 2003 can no longer be considered adequate and are inadequate. The notice of the adequacy determination that is being withdrawn was made on June 12, 2000, in a letter to the State and was published in the **Federal Register** on July 3, 2000.

DATES: The notice of adequacy is withdrawn as of May 10, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia Morris (312–353–8656)

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2000, EPA Region 5 sent a letter to the Illinois Environmental Protection Agency stating that the motor vehicle emissions budgets for NO_X and volatile organic compounds (VOCs) in the November 15, 1999, and supplemented on February 10, 2000, Metro East St. Louis ozone attainment demonstration SIP for 2003 were adequate for the purpose of transportation conformity. EPA published a notice in the **Federal Register** on July 3, 2000, [65 FR 41068] announcing that we had made an adequacy determination for the motor vehicle emissions budgets in the Metro East St. Louis attainment demonstration SIP. This finding was also announced on EPA's conformity website, http://www.epa.gov/oms/traq.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

EPA described the process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999, memo titled ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision''). This guidance was used in making the

adequacy determination on the motor vehicle emissions budgets contained in the ozone attainment demonstration for St. Louis. The criteria by which EPA determines whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). An adequacy review is separate from EPA's SIP completeness review, and it also should not be used to prejudge EPA's ultimate action to approve or disapprove the SIP. The SIP could later be disapproved for reasons unrelated to transportation conformity even though the budgets had been deemed adequate.

EPA believes that a consequence of the D.C. Circuit's order delaying the implementation date of the NO_X SIP Call rule is that the budgets submitted by Illinois can no longer be considered adequate for purposes of transportation conformity and that these budgets are now inadequate. This belief is based on the fact that the attainment demonstration relied on the expected reductions from the NO_X SIP call in 2003, whereas those reductions can not now be assumed prior to 2004.

On November 8, 2000, EPA sent a letter to Illinois advising Illinois of the need to revise the Metro East St. Louis ozone attainment demonstration and to submit revised budgets. The revised budgets are expected to be based on controls that will be in place by the year 2004.

Consequently, EPA has decided to withdraw the June 12, 2000, adequacy determination and is instead finding that the budgets are inadequate. EPA is taking this action without prior notice and comment because adequacy determinations are not considered rulemaking subject to the procedural requirements of the Administrative Procedures Act. In addition, EPA does not believe further notice through EPA's conformity website is necessary in advance because of the delay in the NO_X SIP Call implementation date, it is clear that the budgets can no longer be considered adequate. Consequently, further public comment would be unnecessary and not in the public interest. In this action, EPA is also withdrawing all statements and comments previously made in relation to its earlier determination of the adequacy of the budgets for transportation conformity purposes. The substance of the budgets and any revisions to them will be further reviewed by EPA as part of its final decision to on the 1-hour ozone attainment demonstration SIP for the St. Louis nonattainment area. This SIP was initially submitted to EPA on November 15, 1999 and supplemented on February 10, 2000.

EPA will announce the withdrawal of the adequacy determination and inadequacy finding on its conformity website, (go to *http://www.epa.gov/otaq/traq* and then click on ''conformity'').

Dated: April 30, 2001.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 01–11836 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6976–2]

Meeting of the Local Government Advisory Committee and the Small Community Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee (LGAC) and its Small Community Advisory Subcommittee (SCAS) will meet jointly on June 7–8, 2001, in Washington, D.C. The Committee will hear remarks from the EPA Administrator, Governor Christine Todd Whitman, and the Associate Administrator for the Office of Congressional and Intergovernmental Relations, Edward D. Krenik, on Thursday, June 7th. The LGAC Subcommittees will provide updates on activities since the last Committee meeting. Other agenda topics will include Federalism and Environmental Management Systems. The Committee also will discuss proposed operating principles and revisions to its bylaws resulting from the merger of the SCAS with the LGAC.

The Issues Subcommittee will discuss water infrastructure funding, land use credits under State Implementation plans, and sustainability. The Process Subcommittee will discuss the Agency's draft Public Involvement Policy and accountability measures for Federalism implementation.

The Small Community Advisory Subcommittee will meet in a separate session on Wednesday, June 6th from 9 a.m.–5 p.m. The Subcommittee will update activities since its meeting in Seattle, Washington, on March 1–2, 2001. Topics will include Small Community Funding, a recommendation for Small Community Advocate, Federalism, TMDL Implementation, Sustainability, and Enforcement Flexibility.

The SCAS will hear comments from the public from 1:30–1:45 p.m. at its separate meeting June 6th. The LGAC and SCAS will hear comments from the public between 12:30–12:45 p.m. at their joint session on June 7. Each individual or organization wishing to address the combined Committee or Subcommittee meetings will be allowed a minimum of three minutes. Please contact the Designated Federal Officers (DFO) at the numbers listed below to schedule agenda time. Time will be allotted on a first come, first served basis.

These are open meetings and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. Seating will be on a first come, first served basis.

DATES: The Small Community Advisory Subcommittee meeting is scheduled from 9:00 a.m. to 5:00 p.m. on Wednesday, June 6th. The Local Government Advisory Committee and Small Community Advisory Subcommittee joint meeting will begin at 9:00 a.m. on Thursday, June 7th and conclude at 4:00 p.m. on June 8th.

ADDRESSES: The meetings will be held in Washington, D.C. at the EPA's Headquarters, located at 1200 Pennsylvania Avenue, NW—the Ariel Rios North Building. The SCAS meeting on Wednesday will be held in conference room 3530. The joint LGAC/SCAS meeting on Thursday and Friday will be held in the Green Room on the 3rd floor.

Additional information can be obtained by writing the DFOs at 1200 Pennsylvania Avenue, NW (1306A), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for the Local Government Advisory Committee (LGAC) is Denise Zabinski Ney (202) 564–3684 and the DFO for the Small Community Advisory Subcommittee (SCAS) is Anne Randolph (202) 564–3679.

Dated: May 1, 2001.

Denise Zabinski Ney,

Designated Federal Officer, Local Government Advisory Committee.

Dated: May 1, 2001.

Anne Randolph,

Designated Federal Officer, Small Community Advisory Subcommittee.

[FR Doc. 01–11832 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00315; FRL–6780–5]

Forum on State and Tribal Toxics Action (FOSTTA); Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: One component (The Pollution Prevention Project) of the Forum on State and Tribal Toxics Action (FOSTTA) will meet May 17–18, 2001. This notice announces the location, times, and the focus of the meeting. The National Conference of State Legislatures (NCSL) and the Environmental Protection Agency's (EPA) Office of Pollution Prevention and Toxics (OPPT) are co-sponsoring the meeting. As part of a cooperative agreement, NCSL facilitates ongoing efforts of the States and Tribes to identify, discuss, and address toxics-related issues, and to continue the dialogue on how Federal environmental programs can best be implemented.

DATES: The Pollution Prevention Project will meet May 17, 2001, from 8 a.m. to 5 p.m. and May 18, 2001, from 8 a.m. to noon.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA, 22314. The hotel is across from the King Street Metro Station.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1761.

For technical information contact: George Hagevik, National Conference of State Legislatures, 1560 Broadway, Suite 700, Denver, CO 80202; telephone number: (303) 839–0273 and Fax: (303) 863–8003; e-mail: george.hagevik@ncsl.org or

Darlene Harrod, Environmental Assistance Division (7408), OPPT, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–6904 and Fax: (202) 260–2219; e-mail: harrod.darlene@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in FOSTTA and hearing more about the perspectives of the States on EPA programs and the information exchange regarding important issues related to human health and environmental exposure to toxics. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. However, in the interest of time and efficiency, the meetings are structured to provide maximum opportunity for State and EPA participants to discuss items on the predetermined agenda. At the discretion of the chair, an effort will be made to accommodate participation by observers attending the proceedings. If you have any questions regarding the applicability of this action to a particular entity, consult the technical people listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the NCSL Web site at http://www.ncsl.org/programs/esnr/fostta/fostta.htm. To access this document on the EPA Internet Home Page go to http://www.epa.gov and select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents''. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/FOSTTA.

2. *Facsimile*. Notify the contacts listed above if you would like any of the documents sent to you via fax.

III. Purpose of Meeting

The focus of the meeting is to discuss strategic directions for pollution prevention for the Federal EPA program and the State P2 programs.

IV. How Can I Request To Participate in this Meeting?

You may submit a request to participate in this meeting by mail or electronically to the names under the **FOR FURTHER INFORMATION CONTACT** section. Do not submit any information in your request that is considered Confidential Business Information. Your request must be received by EPA on or before May 15, 2001.

List of Subjects

Environmental protection.

Dated: April 18, 2001.

Barbara Cunningham,

Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–11838 Filed 5–9–01; 8:45am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6976–3]

Proposed Agreement Pursuant to Sections 122(g) and (h) of the Comprehensive Environmental Response, Compensation, and Liability Act for the Marina Cliffs/Northwestern Barrel Superfund Site

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice; request for public comment on proposed de minimis settlement.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and liability Act of 1984, as amended (''CERCLA''), notification is hereby given of a proposed administrative agreement concerning the Marina Cliffs/Northwestern Barrel hazardous waste site located between 5th Avenue and Lake Michigan in South Milwaukee, Wisconsin (the ''Site''). EPA proposes to enter into this agreement under the authority of sections 122(g) and (h) and 107 of CERCLA. The proposed agreement has been executed by the following de minimis parties: AF Gallun & Sons, LLC; Albert Trostel & Sons Company; Aldrich Chemical Co. Inc.; Allen-Bradley Co. LLC; Ampco Metals, Inc.; A.O. Smith Corporation; Appleton Papers Inc., a.k.a. Appleton Papers, Inc., NCR Corporation, Appleton Papers, Inc. division of National Cash Register Company, Appleton Coated Paper Co.; Appleton Coated Paper Company; Appleton Papers Division of NCR Corporation, The National Cash Register Company, NCR Delaware, Inc., Combined Paper Company, Combined Locks Paper Company, Combined Paper Mills, Inc.; AR Accessories Liquidating Trust as successor to Amity Leather, Ato Findley, Inc.; Atofina Chemicals Inc. (Elf Atochem North America, Inc.) on behalf of Beazer East, Inc., on behalf of its former subsidiary Thiem Corporation; Blackhawk Leather, Ltd. and its successor, Blackhawk Leather LLC; Briggs & Stratton Corporation; Bucyrus International, Inc. (f/k/a Bucyrus-Erie Company); Carbolineum Wood Preserving Co.; Case Corporation; Caterpillar Inc.; City of Green Bay,

Wisconsin; City of Manitowoc, Wisconsin; City of Milwaukee, Wisconsin; City of Sheboygan, Wisconsin; City of West Allis, Wisconsin; City of West Bend, Wisconsin; CMC Heartland Partners; Colonial Heights Packaging Inc. f/k/a Milprint, Inc.; Cooper Industries, Inc.; Crucible Materials Corporation by and through its Trent Tube Division; Cudahy Tanning Co.; Deere & Company; Dresser Industries, Inc. (Waukesha Engine); E.I. du Pont de Nemours and Company; Eaton Corporation f/k/a Cutler-Hammer, Inc.); Eggers Industries; Essential Industries Inc.; FMC Corporation on behalf of Bolens Corporation and Bolens Products Divisions; Hamilton Sundstrand Corporation and The Falk Corporation; Fort James Corporation, successor to Fort Howard Corporation; Georgia Gulf Corporation, on behalf of itself, Cook Composites & Polymers, and the former Freemen Chemical Co.; Golden Books Publishing Company, Inc. (formerly known as Western Publishing Company, Inc.); Grede Foundries, Inc.; Harley-Daivdson Motor Company; Harnischfeger Corporation; The Heil Co.; Hein-Werner; Henkel Corporation, as successor to Kepec Chemical; Hentzen/Wisconsin Paint; Hercules Incorporated; Heresite Protective Coatings, Inc.; Honeywell International Inc.; Hydrite Chemical Co.; Hydrite Chemical Co. for Benlo Chemical/ Hydrite share; Ingersoll-Rand Co. for Clark Equipment Co.; International Paper Co. (and Champion International, a wholly owned subsidiary of International Paper); Invincible Metal Furniture Co.; Johnson Controls Battery Group, Inc. as successor to and on behalf of Johnson Controls, Inc.; Kearney & Trecker; Kickhaefer Manufacturing Company; Kimberly-Clark Corporation and Scott Paper Company; Ladish Co., Inc.; Law Tanning Co. LLC; Litton Industries, Inc., on behalf of itself and the Louis Allis company and MagneTek, Inc.; Maysteel Corporation (and its successor, Maysteel LLC); Midwest Tanning Co.; Miller Brewing Company; Milport Chemical Company; Milwaukee County; MRC Holding, Inc. (Northern Paper, Marathon Corp.); Navistar International Transportation Corporation; Nekoosa Papers Inc. and Georgia-Pacific Corporation; The Nelson Paint Co. of MI, Inc.; Niles Chemical Paint Company, Inc.; Nordberg Inc.; Pabst Brewing Co.; Pharmacia & Upjohn Company (formerly The Upjohn Company); The Procter & Gamble Paper Products Company; Rapco Leather, Inc.; Reichhold Chemicals, Inc./J.G. Milligan & Company; Research Products Corporation; RHS Holdings, Inc. as successor to Rexnord, Inc./Chainbelt; RHL Inc. fka Lindsay Finishes, Inc. (Lindsay Paint); Roper Corp.; SBC Holdings, Inc. (f/k/a the Stroh Brewery Company); Seidel Tanning Corp.; The Sherwin-Williams Company; Square D Company; Soo Line Railroad Company; Stolper Industries (Stolper Steel); Stora Enso North America Corp., successor by merger to Consolidated Papers, Inc.; Textron Inc.; Thiele Tanning Company; Union Pacific Railroad Company as successor to Chicago & North Western; Viad Corp (for Armour and Co.); The Vollrath Co., L.L.C.; Wenthe-Davidson Engineering Co.; West Bend Company; W.H. Brady Corporation; Wisconsin Electric Power Company; and the U.S. Department of the Army.

Under the proposed agreement, certain of the *de minimis* Settling Parties will pay a total of approximately $468,227.30 which will be placed into an escrow account to be used for response costs incurred and to be incurred at the Site. Other *de minimis* Settling Parties have already paid approximately $5.2 million toward cleanup costs at the Site and will be provided with *de minimis* protections without making further payments. A group of six non-*de minimis* settlors under this agreement will perform the remaining removal actions to be conducted at the Site, and pay EPA's costs of overseeing these removal actions. EPA incurred response costs overseeing response activities conducted to mitigate an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at the Site. The Settling Parties have spent more than $9.7 million to perform cleanup activities at the Site to date. The non-*de minimis* settlors under this proposed agreement are: BASF Corporation, on behalf of itself and its predecessors in interest, International Printing Ink, Inmont Corp., and Cook Paint & Varnish; DaimlerChrysler Corp.; General Motors Corporation; S.C. Johnson & Son, Inc.; Minnesota Mining and Manufacturing Company; and PPG Industries, Inc.

For thirty days following the date of publication of this notice, the EPA will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before June 11, 2001.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In the Matter of Marina Cliffs/Northwestsern Barrel, South Milwaukee, Wisconsin, U.S. EPA Docket No. V–W–01C–630.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, (312) 886–0562.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 01–11831 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6975–8]

Petroleum Products Superfund Site Notice of Proposed De Minimis Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed de minimis settlement.

SUMMARY: Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has offered a de minimis settlement at the Petroleum Products Superfund Site (Site) under an Administrative Order on Consent (AOC) to settle claims for past and future response costs at the Site. Approximately 77 parties have returned signature pages accepting EPA's settlement offer. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments

disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: May 1, 2001.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–11834 Filed 5–9–01; 8:45 am]

BILLING CODE 6560–50–U

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; Notice of Proposed Information Collection; Comment Request

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: Notice.

SUMMARY: The ONDCP proposes to collect information to test the awareness, attitudes and willingness of adults 18 years and older to participate in community anti-drug coalitions, and seeks public comment on the proposed collection methods.

ADDRESSES: Written comments should be received within sixty days of this notice addressed to Terry Zobeck, Chief of the Programs and Research Branch, Executive Office of the President, Office of National Drug Control Policy, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Terry Zobeck, (202) 395–5503.

SUPPLEMENTARY INFORMATION:

I. Background

The National Youth Anti-Drug Media Campaign is a component within the ONDCP that is partnering with the Advertising Council to create a public service campaign that will generate awareness and involvement in local community anti-drug coalitions that mobilize communities to engage in drug prevention measures. To assist the development of the public service campaign, ONDCP proposes to obtain information to sample the awareness, attitudes and willingness of adults 18 years of age and older in order to participate in community anti-drug coalitions. The information will be used to establish a baseline for measuring changes in attitudes and awareness as a result of the public service campaign, and provide data for formative and qualitative evaluation activities. It will assess the public's exposure to and recall of advertising (within a donated media model), and measure change in attitudes about drug prevention and community anti-drug coalitions.

II. Special Issues for Comment

The agency has particular interest in comments on the following issues:

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; the accuracy of the agency's estimate of the burden of the proposed collection of information; methods to enhance quality, utility and clarity of the information to be collected; and means to minimize the burden of the collection of information on respondents, including the use of automated collection techniques.

III. Authority and Signature

Alan Levitt, Director for the National Youth Anti-Drug Media Campaign, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506).

Signed at Washington, DC on April 30, 2001.

Alan Levitt,

Director, National Youth Anti-Drug Media Campaign.

[FR Doc. 01–11793 Filed 5–9–01; 8:45 am]

BILLING CODE 3180–02–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 10, 2001, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

1. Approval of Minutes
—April 12, 2001 (Open)
2. Report
—Report on Corporate Approvals
3. Regulation
—Eligibility—Direct Final Rule

***Closed Session**

4. Reports
—OSMO Report
—Audit of the FCS Building Association

Dated: May 7, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–11851 Filed 5–7–01; 4:21 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 1, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

the quality, utility, and clarity of the information collected; and (d) ways 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.

DATES: Written comments should be submitted on or before July 9, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0824.

Title: Service Provider Information Form.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 10,000.

Estimated Time Per Response: 1 hour per response (avg).

Total Annual Burden: 10,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Needs and Uses: Pursuant to 47 CFR sections 54.515 and 54.611, the Administrator must obtain information relating to: service provider name and address, telephone number, Federal employee identification number, contact names and telephone numbers, and billing and collection information. FCC Form 498 has been designed to collect this information from carriers and service providers participating in the universal service program. The information will be used in the reimbursement of universal service support payments.

OMB Control No.: 3060–0804.

Title: Universal Service—Health Care Providers Universal Service Program.

Form No.: FCC Forms 465, 466, 466-A, 467 and 468.

Type of Review: Extension.

Respondents: Not for profit institutions; Business or Other for Profit.

Number of Respondents: 5255.

Estimated Time Per Response: 1.85 hours per response (avg).

Total Annual Burden: 9755 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion;.

Needs and Uses: The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible health care providers. Health care providers who want to participate in the universal service program must file several forms, including FCC Forms 465, 466, 466-A, 467, and 468. FCC Form 465, Description of Service Requested and Certification is filed by rural health care providers to certify their eligibility to receive discounted telecommunications services. FCC Form 466, Funding Request and Certification Form is used to ensure that health care providers have selected the most cost-effective method of providing the requested services. FCC Form 466-A is filed by rural health care providers seeking support only for toll changes to access the Internet. FCC Form 467, Connection Certification is filed by rural health care providers to inform the Administrator that they have begun to receive, or have stopped receiving, the telecommunications services for which universal service support has been allocated. FCC Form 468, Telecommunications Carrier Form, is submitted by rural health care providers to ensure that the telecommunications carrier receives the appropriate amount of credit for providing telecommunications services to eligible health care providers.

OMB Control No.: 3060–0855.

Title: Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 96–45.

Form No.: FCC Forms 499, 499–A and 499–Q.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 5000.

Estimated Time Per Response: 16.49 hours per response (avg).

Total Annual Burden: 82,487 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Monthly; Annually; Third Party Disclosure; Recordkeeping.

Needs and Uses: Pursuant to the Communications Act of 1934, as amended, telecommunications carriers (and certain other providers of telecommunications services) must contribute to the support and cost recovery mechanisms for telecommunications relay services, numbering administration, number portability, and universal service. The Commission recently modified the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. The modifications adopted entail altering the current revenue reporting requirements to which interstate telecommunications carriers are subject under 47 U.S.C. Sections 54.709 and 54.711. Carriers continue to file FCC Form 499–A annually as they are required to do under the existing methodology. Carriers must now report their revenues for each quarter on FCC Form 499–Q. Carriers will file one annual filing and four quarterly filings, for a total of five revenue filings per year.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11765 Filed 5–9–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

May 1, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 9, 2001. If you anticipate that you will be submitting comments, but find it

difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Les Smith, Federal Communications Commissions, Room 1A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0166.

Title: Part 42—Preservation of Records of Communication Common Carriers.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 68.

Estimated Time Per Response: 2 hours per response (avg).

Total Annual Burden: 136 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Recordkeeping.

Needs and Uses: Section 220 of the Communications Act of 1934, as amended, makes it unlawful for carriers to willfully destroy information retained for the Commission. 47 U.S.C. part 42 prescribes guidelines to ensure that carriers maintain the necessary records needed by the FCC for its regulatory obligations. The requirements are necessary to ensure the availability of carrier records needed by Commission staff for regulatory purposes.

OMB Control No.: 3060–0149.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, and Sections 63.01–63.601.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 255.

Estimated Time Per Response: 10 hours per response (avg).

Total Annual Burden: 2550 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Needs and Uses: Section 214 of the Communications Act of 1934, as amended, requires that the FCC review the establishment, lease, operations, and extension of channels of communications by interstate common carriers. 47 CFR part 63 implements section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video programming by telephone common carriers. The information received in applications from dominant carriers is used to determine if the facilities are needed. The information received from non-dominant carriers is used to monitor the growth of the networks and the availability of common carrier services.

OMB Control No.: 3060–0814.

Title: Section 54.301, Local Switching Support and Local Switching Support Data Collection Form and Instructions.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 192.

Estimated Time Per Response: 21.55 hours per response (avg).

Total Annual Burden: 4138 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually.

Needs and Uses: Pursuant to 47 CFR Section 54.301, each incumbent local exchange carrier that is not a member of the NECA common line tariff, that has been designated an eligible telecommunications carriers, and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the projected total unseparated dollar amount assigned to each account in section 54.301(b). Average schedule companies are required to file information pursuant to 47 CFR Section 54.301(f). Both respondents must provide true-up data. The data is necessary to calculate certain revenue requirement.

OMB Control No.: 3060–0736.

Title: Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96–149.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 5.

Estimated Time Per Response: 60.6 hours per response (avg).

Total Annual Burden: 303 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Monthly; Annually; Third Party Disclosure.

Needs and Uses: Section 272 of the Telecommunications Act of 1996 requires that Bell Operating Companies (BOCs) make information available to third parties if it makes that information available to its section 272(a) affiliates. In CC Docket No. 96–149, the Commission adopted safeguards to govern BOCs entry into certain new markets. BOCs are required to provide, among other things, unaffiliated entities with all listing information, including unlisted and unpublished numbers as well as the numbers of other local exchange carriers' customers, that the BOC uses to provide E9II services. In a Further Notice of Proposed Rulemaking issued in CC Docket No. 96–149, the Commission proposed that BOCs make certain information disclosures available to unaffiliated entities and that the BOCs submit an annual affidavit.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11766 Filed 5–9–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 1, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0807.

Expiration Date: April 30, 2004.

Title: 47 CFR 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 52 respondents; 39.2 hours per response (avg.); 2040 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: Pursuant to 47 U.S.C. section 252 and 47 CFR 51.803 any interested party seeking preemption of a state commission's jurisdiction based on the state commission's failure to act shall notify the Commission as follows: (1) file with the Secretary of the Commission a detailed petition, supported by an affidavit, that states with specificity the basis for any claim that it has failed to act; and (2) serve the state commission and other parties to the proceeding on the same day that the party serves the petition on the Commission. Within 15 days of the filing of the petition, the state commission and parties to the proceeding may file a response to the petition. In a Public Notice (DA 97–2256), the Commission set out procedures for filing petitions for preemption pursuant to 47 U.S.C. section 252(e)(5). All of the requirements are used to ensure that petitions have complied with their obligations under the Communications Act of 1934, as amended. Obligation to respond: Required to obtain or retain benefits. Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11764 Filed 5–9–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2481]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

May 3, 2001.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by May 25, 2001. See section 1.4(b)(1) of the Commission's rules (r7 CFR 1.4(b)(1)). Replies to an opposition must be filed within10 days after the time for filing oppositions have expired.

Subject: Federal-State Joint Board on Universal Service (CC Docket No. 96–45).

Number of Petitions Filed: 1.

Subject:

Carriage of Digital Television Broadcast Stations (CS Docket No. 98–120) Amendments to Part 76 of the Commission's Rules

Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues (CS Docket No. 00–96)

Application of Network Non-Duplication, Syndicated Exclusively and Sports Blackout Rules to Satellite Retransmission of Broadcast Signals (CS Docket No. 00–2)

Number of Petitions Filed: 10.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11844 Filed 5–9–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, May 15, 2001 at 10:00 a.m.

PLACE: 999 Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE & TIME: Thursday, May 17, 2001 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Final Audit Report on the California State Republican Party

Administration Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–11878 Filed 5–8–01; 11:01 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System, Federal Reserve System.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve 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, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the

proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 9, 2001.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Implementation of the Following Report

Report title: the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies.

Agency form number: FR Y–12.

Frequency: Quarterly and semi-annually.

Reporters: Bank holding companies.

Annual reporting hours: 14,112 hours.

Estimated average hours per response: 16 hours.

Number of respondents: 232.

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(c)) and data may be exempt from disclosure pursuant to sections (b)(4) and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (8)).

Current Actions: The Federal Reserve proposes to implement the mandatory FR Y–12. The FR Y–12 would collect information from certain domestic bank holding companies on their investments in nonfinancial companies on three schedules: Type of Investments, Type of Security, and Type of Entity within the Banking Organization. Large bank holding companies would report on a quarterly basis, and small bank holding companies would report semi-annually.

BHC investments in nonfinancial companies have increased significantly over the past several years. These investments have contributed significantly to earnings and capital at institutions actively involved in this business line. Equity investments also have contributed to the volatility of earnings and capital in recent periods and have increased some institutions' risk profiles. The GLB Act permits financial holding companies to make investments in any amount in any type of nonfinancial company as part of a securities underwriting or merchant or investment banking activity. The investments permissible under the GLB Act's merchant banking authority are substantially broader in scope than the investment activities otherwise permissible for BHCs. Thus, these investments present the potential for additional volatility and risk in banking organizations' portfolios.

The FR Y–12 would provide valuable supervisory information that would permit examiners and other supervisory staff to monitor the on-going growth and contribution to profitability of this increasingly active business line. For institutions active in this business line, annual reviews generally are conducted. The FR Y–12 would serve as an important risk-monitoring device for institutions active in this business line by allowing supervisory staff to monitor an institution's activity between review dates. It also could serve as an ''early warning'' mechanism to identify institutions whose activities in this area are growing rapidly and that, therefore, may warrant special supervisory attention.

On January 31, 2001, the Board and the Treasury Department published a final rule in the **Federal Register** on merchant banking investments made by financial holding companies (66 FR 8466). In Section 225.175 of this final rule, the two agencies stated that reporting forms to fulfill the quarterly and annual reporting requirements associated with this rule would be published separately. Institutions will not be held responsible for these reporting requirements until the reporting forms are finalized. This proposal covers the quarterly reporting requirements; the reporting forms for the annual reporting requirements will be addressed in a separate proposal later this year. The annual report would obtain information on merchant banking investments that have been held for an extended period of time.

The Federal Reserve would also like to solicit public comment on the burden of collecting a memorandum item on consolidated recognized gains or losses on equity investments in nonfinancial companies. This item is being considered for purposes of determining what portion of a BHC's consolidated net income is derived from equity investment activities.

Board of Governors of the Federal Reserve System, May 4, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–11749 Filed 5–9–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities; Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain

a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects 1. National Study of Child Protective Services Systems and Reform Efforts—NEW—The Office of the Assistant Secretary for Planning and Evaluation is proposing to conduct a study which will document the evolving practices underway in the field of Child Protective Services (CPS). Specifically, State officials will be interviewed to obtain an updated picture of current policy; local CPS agencies serving a stratified random sample of 150 counties will be surveyed and; on-site visits will be conducted at 9–12 local CPS agencies that are implementing innovative practices in their delivery of services. For burden estimates see table.

Instrument	Number of respondents	Responses	Hours per response	Total hours
State—CPS Directors	51	1	2	102
State—Hotline	25	1	1	25
Local Survey—Administration	150	1	.5	75
Local Survey—Intake	150	1	1	150
Local Survey—Investigation	225	1	1	225
Local Survey—Other CPS Resp	100	1	1	100
Local Survey—New Directions	150	1	1	150
Local Survey—Additional	40	1	1	40
Site Visit—Director Interview	12	1	1	12
Site Visit—Reform Managers	16	1	2	32
Site Visit—Worker Focus Group	60	1	2	120
Site Visit—External Managers	40	1	2	80
Site Visit—Manager Focus Group	96	1	2	192
Total	1,115	.....	.....	1,303

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 60 days of this notice.

Dated: May 3, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–11731 Filed 5–9–01; 8:45 am]

BILLING CODE 4154–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency For Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Director, AHRQ, with respect to the technical merit of proposals submitted in response to a Request for Proposals (RFPs) regarding ''Developing Tools to Enhance Quality and Patient Safety Through Medical Informatics'', issued on January 31, 2001. The contract will constitute AHRQ's participation in the Small Business Innovation Research program.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR section 315.604(d). This discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary information and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Developing Tools to Enhance Quality and Patient Safety Through Medical Informatics''.

Date: May 21 & 22, 2001 (Closed to the public).

Place: Sheraton Four Points Hotel, 8400 Wisconsin Avenue, Ambassador I Room, Bethesda, MD 20814.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Eduardo Ortiz, Center for Primary Care Research, Agency for Healthcare Research and Quality, 6010 Executive Blvd., Suite 201, Rockville, Maryland 20852, 301–594–6236.

Dated: May 1, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–11741 Filed 5–9–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–37]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of

the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

The National Health and Nutrition Examination Survey (NHANES)—Revision—OMB No. 0920–0237 National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The National Health and Nutrition Examination Survey (NHANES) has been conducted periodically since 1970 by the National Center for Health Statistics, CDC. The current cycle of NHANES began in February 1999 and will now be conducted on a continuous, rather than periodic, basis. About 5,000 persons will be examined annually. They will receive an interview and a physical examination. Participation in the survey is completely voluntary and confidential.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as coronary heart disease, arthritis, osteoporosis, pulmonary and infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, environmental exposures, and diet. NHANES data are used to establish the norms for the general population against which health care providers can compare such patient characteristics as height, weight, and nutrient levels in the blood. Data from NHANES can be compared to those from previous surveys to monitor changes in the health of the U.S. population. NHANES will also establish a national probability sample of genetic material for future genetic research for susceptibility to disease.

Users of NHANES data include Congress; the World Health Organization; Federal agencies such as NIH, EPA, and USDA; private groups such as the American Heart Association; schools of public health; private businesses; individual practitioners; and administrators. NHANES data are used to establish, monitor, and evaluate recommended dietary allowances, food fortification policies, programs to limit environmental exposures, immunization guidelines and health education and disease prevention programs. The current submission requests approval through November 2004.

The survey description, contents, and uses are the same as those in the previous **Federal Register** notice for this survey which was published on March 27, 2000 (Volume 65, Number 59). There is no net cost to respondents other than their time. Respondents are reimbursed for any out-of-pocket costs such as transportation to and from the examination center.

Burden category	Number of respondents per year	Number of responses/ respondent	Avg. burden per response (in hours)	Total burden (in hours)
1. Screening interview only	13,333	1	0.167	2,227
2. Screener and family interviews only	500	1	0.434	217
3. Screener, family, and SP interviews only	882	1	1.101	971
4. Screener, family, and SP interviews and primary MEC exam only	4,951	1	6.669	33,018
5. Screener, household, and SP interviews, primary MEC exam and full MEC replicate exam	248	1	11.669	2,894
6. Screener, household, and SP interviews, and home exam	50	1	1.851	93
7. Quality control verification	1,333	1	0.030	40
8. Special studies	2,067	1	0.500	1,034
Total				40,494

Dated: May 4, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–11814 Filed 5–9–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–36]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

The State and Local Area Integrated Telephone Survey (SLAITS)—Revision—OMB No. 0920–0406 National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). This is a request to continue for three years the integrated and coordinated survey system designed to collect needed health and welfare related data at the state and local levels. Using the random-digit-dial sampling frame from the ongoing National Immunization Survey (NIS) and Computer Assisted Telephone Interviewing (CATI), the State and Local Area Integrated Telephone Survey (SLAITS) has quickly collected and produced data to monitor health status, child and family well-being, health care utilization, access to care, program participation, chronic conditions, and changes in health care coverage at the state and local levels. These efforts are conducted in cooperation with federal, state, and local officials. SLAITS offers a centrally administered data collection mechanism with standardized questionnaires and quality control measures which allow comparability of estimates between states, over time, and with national data. SLAITS is designed to allow oversampling of population subdomains and to meet federal, state and local needs for subnational estimates which are compatible with national data.

For some SLAITS modules, questionnaire content was drawn from existing surveys including the National Health Interview Survey (NHIS), the National Health and Nutrition Examination Survey (NHANES), the Current Population Survey (CPS), the Survey of Income and Program Participation (SIPP), the National Household Education Survey, and the National Survey of America's Families. Other questionnaire modules were developed specifically for SLAITS during the pilot study phase and during the past three years. The existing modules include General Health, Child Well-Being and Welfare, Children with Special Health Care Needs, Asthma Prevalence and Treatment, Knowledge of Medicaid and the State Children's Health Insurance Program (SCHIP), Survey of Early Childhood Health, and HIV/STD Related Risk Behavior.

Over the past three years, SLAITS has provided policy analysts, program planners, and researchers with high quality data for decision making and program assessment. The module on Medicaid and SCHIP will be featured prominently in a report to Congress on insuring children. The module on children with special health care needs (CSHCN) will be used by federal and state Maternal and Child Health Bureau Directors in evaluating programs and service needs. The American Academy of Pediatrics is using the module on early childhood health to advise pediatricians on patient care standards and informing parents about the health and well-being of young children.

Funding for SLAITS is obtained through a variety of mechanisms including Foundation grants, State collaborations, and federal appropriation and evaluation monies. The level of implementation depends on the amount of funding received and can be expanded as funding permits. Questionnaire modules will be compiled to address the data needs of interest to the federal, state or local funding agency or organization. Possible topics include but are not limited to disability, children's health, violence against women, health behaviors, unintentional injuries, program participation, health care coverage, or any of the topics previously studied. The burden table below is annualized. There is no cost to respondents other than their time.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response in hours	Total burden in hours
Noninstitutionalized household population in 50 States and D.C.	204,000	1	0.30	61,200
Pretest modules	1,800	1	0.30	600
Total Burden	205,800			61,800

Dated: May 4, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–11815 Filed 5–9–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–01–02]

Developmental Disabilities: Final Notice of Availability of Financial Assistance and Request for Applications To Support Demonstration Projects Under the Projects of National Significance Program

AGENCY: Administration on Developmental Disabilities (ADD), ACF, DHHS.

ACTION: Invitation to apply for financial assistance.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that applications are being accepted for funding of Fiscal Year 2001 Projects of National Significance.

This program announcement consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD. Part II provides the necessary background information on ADD for applicants. Part III describes the review process. Part IV describes the priority under which ADD requests applications for Fiscal Year 2001 funding of projects. Part V describes in detail how to prepare and submit an application.

Grants will be awarded under this program announcement subject to the

availability of funds for support of these activities.

DATES: The closing date for submittal of applications under this announcement is July 9, 2001. Mailed or hand-carried applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, ACF/Administration on Developmental Disabilities, 370 L'Enfant Promenade SW., Mail Stop 326–HHH, Washington, DC 20447, Attention: Lois Hodge.

Acceptable proof of timely mailing is required. A postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing.

Applications hand-carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, ACF/Office of Grants Management, 370 L'Enfant Promenade SW, ACF Mail Center, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note ''Attention: Lois Hodge''. Applicants using express/overnight services should allow two working days prior to the deadline date for receipt of applications. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) Any applications received after 4:30 p.m. on the deadline date will not be considered for competition.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods and hurricanes, etc., widespread disruption of the mails or when it is anticipated that many of the applications will come from rural or remote areas. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

ADDRESSES: Application materials are available from Debbie Powell, 370 L'Enfant Promenade, SW., Rm. 300F, Washington, DC 20447, 202/690–5911, http://www.acf.dhhs.gov/programs/add; or add@acf.dhhs.gov.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), Debbie Powell, 370 L'Enfant Promenade, SW., Rm. 300F, Washington, DC 20447, 202/690–5911; or add@acf.dhhs.gov.

Notice of Intent to Submit Application: If you intend to submit an application, please send a post card with the number and title of this announcement, the Area of Emphasis you wish to apply under, your organization's name and address, and your contact person's name, phone and fax numbers, and e-mail address to: Administration on Developmental Disabilities, 370 L'Enfant Promenade SW, Washington, DC 20447, Attn: Projects of National Significance.

This information will be used to determine the number of expert reviewers needed and to update the mailing list to whom program announcements are sent.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific populations it serves, ADD shares a common set of goals that promote the economic and social well being of families, children, individuals and communities. Through national leadership, ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access;
- A strong commitment to working with Native Americans, persons with developmental disabilities, refugees and migrants to address their needs, strengths and abilities; and
- A community-based approach that recognizes and expands on the resources and benefits of diversity.

Emphasis on these goals and progress toward them will help more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of persons with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 6000, *et seq.*) (The Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, integration and inclusion into the community.

In the Act, Congress expressly found that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity, integration and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates,

community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further established as the policy of the United States:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for people with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks: to enhance the capabilities of families in assisting people with developmental disabilities to achieve their maximum potential; to support the increasing ability of people with developmental disabilities to exercise greater choice and self-determination; to engage in leadership activities in their communities; as well as to ensure the protection of their legal and human rights.

The four programs funded under the Act are:

- Federal assistance to State Developmental Disabilities Councils;
- State system for the protection and advocacy of individuals rights;
- Grants to the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service for interdisciplinary training, exemplary services, technical assistance, research and information dissemination; and
- Grants for Projects of National Significance.

C. Statutory Authorities Covered Under This Announcement

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15000, *et seq.* The Projects of National Significance is Part E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15081, *et seq.*

Part II. Background Information for Applicants

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;
—Educating policy makers;
—Federal interagency initiatives;
—The enhancement of participation of minority and ethnic groups in public and private sector initiatives in developmental disabilities; and
—Transition of youth with developmental disabilities from school to adult life.

The purpose of the Projects of National Significance program is not only to provide technical assistance to the Developmental Disabilities Councils, the Protection and Advocacy Systems, and the University Centers for Excellence, but also to support projects ''that hold promise to expand or improve opportunities for people with developmental disabilities.'' Representing only 4% of ADD's federal dollars, PNS funds have initiated cutting edge projects, such as the ''Reinventing Quality: Promising Practices in Person-Centered Community Services and quality Assurance for People with Development Disabilities'' that are at the forefront of the developmental disabilities field challenging traditional thinking and practices. The Area of Emphasis which are directly related to ADD's outcomes contained in its ''Roadmap to the Future,'' our plan for implementing GPRA, is intended to increase community support and promote self-determination, and encourage interaction, and collaboration among all sectors of the Developmental Disabilities field to attain and share information.

Part III. The Review Process

A. Eligible Applicants

Before applications under this Announcement are reviewed, each will be screened to determine that the applicant is eligible for funding as specified under the selected Area of Emphasis. Applications from organizations which do not meet the eligibility requirements for the Priority Area will not be considered or reviewed in the competition, and the applicant will be so informed.

Only public or non-profit private entities, not individuals, are eligible to apply under any of the Areas of Emphasis. All applications developed jointly by more than one agency or organization must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, sub-grantees or subcontractors.

Nonprofit organizations must submit proof of nonprofit status in their applications at the time of submission. One means of accomplishing this is by providing a copy of the applicant's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

ADD cannot fund a nonprofit applicant without acceptable proof of its nonprofit status.

B. Review Process and Funding Decisions

Timely applications under this Announcement from eligible applicants received by the deadline date will be reviewed and scored competitively. Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this Part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ADD Regional Office staff, other Federal agencies,

interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making decisions on awards, ADD will consider whether applications focus on or feature: Services to culturally diverse or ethnic populations among others; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations administering or delivering of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

This year, 5 points will be awarded in scoring for any project that includes partnership and collaboration with the 140 Empowerment Zones/Enterprise Communities. A discussion of how the involvement of the EZ/EC is related to the objectives and/or the activities of the project must be clearly outlined for the award of the 5 points. Also, a letter from the appropriate representatives of the EZ/EC must accompany the application indicating its agreement to participate and describing its role in the project.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Process

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. To facilitate this review, applicants should ensure that they address each minimum requirement in the Priority Area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments, and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

D. Structure of Areas of Emphasis Descriptions

The Area of Emphasis description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization eligible to apply under the particular area of emphasis. Specific restrictions are also noted, where applicable.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the area of emphasis.
- *Background Information:* This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular area of emphasis activity. Relevant information on projects previously funded by ACF and/or other State models are noted, where applicable.
- *Evaluation Criteria:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to need for assistance, results expected, project design, and organizational and staff capabilities. Inclusion and discussion of these items is important since the information provided will be used by the reviewers in evaluating the application against the evaluation criteria. Applicants should review the section on the Uniform Project Description and the evaluation section under the priority area.
- *Minimum Requirements for Project Design:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers to evaluate the applications against the evaluation criteria. Project products, continuation of the project after Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- *Project Duration:* This section specifies the maximum allowable length of the project period; it refers to the amount of time for which Federal funding is available.
- *Federal Share of Project Costs:* This section specifies the maximum amount of Federal support for the project.
- *Matching Requirement:* This section specifies the minimum non-Federal contribution, either cash or in-kind match, required.
- *Anticipated Number of Projects To Be Funded:* This section specifies the number of projects ADD anticipates funding under the Priority Area.
- *CFDA:* This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this Priority Area will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applications under this Announcement that do not comply with the specific Priority Area requirements in the section on ''Eligible Applicants'' will not be reviewed.

Applicants under this Announcement must clearly identify the specific area of emphasis under which they wish to have their applications considered, and tailor their applications accordingly. Experience has shown that an application which is broader and more general in concept than outlined in the area of emphasis description is less likely to score as well as an application more clearly focused on, and directly responsive to, the concerns of that specific area of emphasis.

E. Available Funds

ADD intends to award new grants resulting from this announcement during the fourth quarter of fiscal year 2001, subject to the availability of funding. The Priority Area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term ''budget period'' refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term ''project period'' refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose shorter project periods than the maximums specified in the various areas of emphasis. Non-Federal share contributions may exceed the minimums specified in the various areas of emphasis.

For multi-year projects, continued Federal funding beyond the first budget period, but within the approved project period, is subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

F. Grantee Share of Project Costs

Grantees must match $1 for every $3 requested in Federal funding to reach

25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (total project cost is $133,333, of which $33,333 is 25%).

An exception to the grantee cost-sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under section 501(d) of Pub. L. 95–134, which requires that the Department waive ''any requirement for local matching funds for grants under $200,000.''

The applicant contribution must generally be secured from non-Federal sources. Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. However, funds from some Federal programs benefiting Tribes and Native American organizations have been used to provide valid sources of matching funds. If this is the case for a Tribe or Native American organization submitting an application to ADD, that organization should identify the programs which will be providing the funds for the match in its application. If the application successfully competes for PNS grant funds, ADD will determine whether there is statutory authority for this use of the funds. The Administration for Native Americans and the DHHS Office of General Counsel will assist ADD in making this determination.

G. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description (UPD) has been approved under OMB Control Number 0970–0139. Applicants are required to submit a full project description and must prepare the project description statement in accordance with the following instructions.

1. *Project summary/abstract:* Provide a summary of the project description (a page or less) with reference to the funding request.

2. *Objectives and Need for Assistance:* Clearly identify the physical, economic, social, financial, institutional and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonies from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated) some of which may be outside the scope of the program announcement.

3. *Results or Benefits Expected:* Identify the results and benefits to be derived. For example, when applying for a grant to establish a neighborhood child care center, describe who will occupy the facility, who will use the facility, how the facility will be used, and how the facility will benefit the community which it will serve.

4. *Approach:* Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cites factors which might accelerate or decelerate the work, and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S.Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

5. *Organization Profile:* Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Part IV. Fiscal Year 2001 Areas of Emphasis for Projects of National Significance—Description and Requirements

The following section presents the Priority Areas for Fiscal Year 2001 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 2001 Priority Area 1: Rapid Deployment of Good Ideas

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- *Purpose:* ADD is interested in awarding grant funds for new projects models in the field of developmental disabilities in the following Areas of Emphasis:

1. Quality assurance activities,
2. Education and early intervention activities,
3. Child care-related activities,
4. Health-related activities,
5. Employment-related activities,
6. Housing-related activities,
7. Transportation-related activities and
8. Recreation-related activities.

These eight Areas of Emphasis were identified by ADD together with the programs it funds, as the framework for implementing diverse strategies and activities, and achieving outcomes necessary to move closer to the principles of independence, productivity, integration, and inclusion for people with developmental

disabilities. ADD is interested in projects which will transfer information and knowledge through the utilization of creative and innovative methods of implementation, replication and dissemination. These projects must demonstrate proven success by increasing the independence, productivity, integration and inclusion of people with developmental disabilities and their families in communities in which they live.

• *Background Information:*

The ADD's ''Roadmap to the Future,'' which was developed together with the programs it funds, establishes a course of action for ADD and for its programs. The Roadmap defines the mission and vision of ADD, of the State Developmental Disabilities Councils (DDCs), of the Protection and Advocacy Systems (P&As), of the National Network of University Centers for Excellence in Developmental Disabilities in Education, Research and Service (UCEs), and of the Projects of National Significance (PNS). It identifies goals created to increase the independence, productivity, and integration and inclusion of people with developmental disabilities and their families. Program activities will be directed toward achieving the Roadmap goals through advocacy, capacity building, and systemic change activities in the eight Areas of Emphasis.

The Projects of National Significance (PNS) Program is one of the activities of ADD. Every year since 1975 there have been model demonstration projects funded to increase the independence, productivity, and integration and inclusion of people with developmental disabilities. These projects have generated inventive approaches, strategies, and methodologies designed to address pervasive problems or needs of individuals with developmental disabilities and their families. Over the years, PNS projects have contributed to the knowledge base of the developmental disabilities field and the larger disability field as well. In the past decade, the leadership capacity of individuals with developmental disabilities, especially self-advocates, has been nourished and strengthened by the funding of PNS projects.

New design models of transferring knowledge and fostering utilization must be explored if we are to meet the needs of Americans with disabilities and their families. ADD is extremely interested in supporting this transfer of knowledge and information from new models under this Priority Area.

These models must surpass our standard methods of communicating best practices and practical solutions to those we serve and those who serve them. Projects must be outcome driven—demonstrating effectiveness and behavioral changes of the targeted population. They must:

• Be culturally competent.

• Demonstrate strong collaborations through partnerships and coalitions.

• Be community-based and include consumers and their families as key participants where appropriate.

The content area must focus on a single Area of Emphasis. ADD is interested in applications to promote projects with proven, positive results-based practices, methodologies or processes in the field of developmental disabilities or a directly related field such as universal design. The model to be promoted can be as expansive as systems change or a new paradigm, or as targeted as a new training curriculum. These new models should consider creative partnering in implementing the project.

In the last century we were the beneficiaries of extraordinary human developments that would have been considered inconceivable by many; this progress has raised our expectations for this new century. This is no less true for people with developmental disabilities and their families who, in this age of the Internet, the PC, and satellite downlinks, expect there will be new models available to everyone who needs them. ADD views this Priority Area as an unprecedented opportunity to take what we have learned through federally funded projects and find enterprising, inventive, and imaginative ways promoting the use of the knowledge so that all will benefit—people with developmental disabilities and other disabilities, professionals who serve them, their families, and the communities in which they live, in all segments of our American society.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects which include the following:

• Partnerships between consumers/advocacy organizations, research foundations, public/private entities and others to coordinate, implement and disseminate information and transfer of knowledge to a broad audience to include consumers and their families and entities that serve them.

• Project design must address barriers and issues of access to the mechanism(s) used to transfer knowledge and information, for persons using various assistive devices and equipment.

• All projects shall provide for the widespread distribution of their products (reports, summary documents, audio-visual materials, etc.) in accessible format and in languages other than English.

• Describe and develop methods/plans to be used to continue the transfer of knowledge and information once the project period ends.

• Develop and implement an evaluation process to ensure that systematic and objective information is available about the utilization and effectiveness of the products from this project.

• Specific outcomes tied to the ADD ''Roadmap to the Future'' to increase the independence, productivity, integration and inclusion of individuals with developmental disabilities must be built into the project for dissemination to a board audience.

• Describe measurable outcomes.

As a general guide, ADD will expect to fund only those proposals for projects that incorporate the following elements:

• Consumer/self-advocate orientation and participation.

• Key project personnel who have direct life experience with living with a disability.

• Strong advisory components that consist of a majority of individuals with disabilities and a structure where individuals with disabilities make real decisions that determine the outcome of the grant.

• Research reflecting the principles of participatory action.

• Cultural competency.

• A description of how individuals with disabilities and their families will be involved in all aspects of the design, implementation, and evaluation of the project.

• Attention to unserved and inadequately served individuals, from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugee families, with disabilities.

• Compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 as amended by the Rehabilitation Act amendments of 1992 (Pub.L. 102–569).

• Collaboration through partnerships and coalitions.

• Development of the capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication.

• Development and establishment of practices and programs beyond project period.

• Dissemination of models, products, best practices, and strategies for distribution between the networks and beyond. A plan describing initial activities is needed between funded projects as well as at the end of the

project period. These activities should maintain and share ongoing information, existing resources of consultants/experts, and curriculum/materials with funded projects and within the network.

Evaluation Criteria: The four criteria that follow will be used to review and evaluate each application under the specific area of emphasis. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description. Additional information that must be addressed is described below.

Criterion 1: Objectives and Need for Assistance (20 points)

The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids must be attached.

Criterion 2: Results or Benefits Expected (20 points)

The extent to which they are consistent with the objectives of the application, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs is reasonable in view of the expected results.

Criterion 3: Approach (35 points)

Discuss the criteria to be used to evaluate the results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

Criterion 4: Organization Profile (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The application describes the relationship between this project and the other work planned, anticipated or under way by the applicant which is being supported by Federal assistance.

This section should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. It may include description of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this Priority Area beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the Government.

- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a three-year project period.

- *Matching Requirement:* Grantees must match $1 for every $3 requested in Federal funding to reach 25% of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (the total project cost is $133,333, of which $33,333 is 25%).

- *Anticipated Number of Projects to be Funded:* It is anticipated that up to thirteen (13) projects will be funded.

- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631— Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF424.

Part V. Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. An application package containing forms can be obtained by any of the following methods: Debbie Powell, ADD, 370 L'Enfant Promenade SW., Washington, DC 20447, 202/690–5911; http://www.acf.dhhs.gov/programs/add; or add@acf.dhhs.gov.

Potential applicants should read this section carefully in conjunction with the information contained within the specific area of emphasis under which the application is to be submitted. The Area's of Emphasis descriptions are in Part IV.

A. Required Notification of the State Single Point of Contact (SPOC)

All applications under the ADD Priority Area are required to follow the Executive Order (E.O.) 12372 process, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory participation in the intergovernmental review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its SPOC, if applicable, or to ACF.

As of November 20, 1998, all States and territories, except Alabama, Alaska, American Somoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these jurisdictions or for projects administered by Federally-recognized Indian Tribes need take no action regarding E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is

imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contacted, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new or competing continuation awards. However, there is insufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days from the closing date for applications. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration on Children Youth and Families, Office of Grants Management, 370 L'Enfant Promenade, SW., Mail Stop 326F–HHH, Washington, DC 20447, Attn: Lois Hodge ADD—Projects of National Significance.

Contact information for each State's SPOC is found at the ADD website (*http://www.acf.dhhs.gov/programs/add*) or by contacting Debbie Powell, ADD, 370 L'Enfant Promenade SW, Mailstop 300F, Washington, DC, 20447, 202/690–5911.

B. Notification of State Developmental Disabilities Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Council in each State in which the applicant's project will be conducted. A list of the State Developmental Disabilities Councils can be found at ADD's website: *http://www.acf.dhhs.gov/programs/add* under Programs, or by contacting Debbie Powell, ADD, 370 L'Enfant Promenade SW., Mailstop 300F, Washington, DC 20447, 202/690–5911.

C. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A—Page 2 and Certifications/ Assurances are contained in the application package. Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page: Enter the selected Area of Emphasis under which the application is being submitted.

Item 1. ''Type of Submission''—Preprinted on the form.

Item 2. ''Date Submitted'' and ''Applicant Identifier''—Date application is submitted to ACYF and applicant's own internal control number, if applicable.

Item 3. ''Date Received By State''—State use only (if applicable).

Item 4. ''Date Received by Federal Agency''—Leave blank.

Item 5. ''Applicant Information''.

''Legal Name''—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

''Organizational Unit''—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

''Address''—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

''Name and telephone number of the person to be contacted on matters involving this application (give area code)''—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. ''Employer Identification Number (EIN)''—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. ''Type of Applicant''—Self-explanatory.

Item 8. ''Type of Application''—Preprinted on the form.

Item 9. ''Name of Federal Agency''—Preprinted on the form.

Item 10. ''Catalog of Federal Domestic Assistance Number and Title''—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For the ADD Area of Emphasis, the following should be entered, ''93.631—Developmental Disabilities: Projects of National Significance.''

Item 11. ''Descriptive Title of Applicant's Project''—Enter the project title. The title is generally short and is descriptive of the project, not the Area of Emphasis title.

Item 12. ''Areas Affected by Project''—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. ''Proposed Project''—Enter the desired start date for the project and projected completion date.

Item 14. ''Congressional District of Applicant/Project''—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter ''00.''

Items 15. Estimated Funding Levels—In completing 15a through 15f, the dollar amounts entered should reflect, for a 17-month project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the Area of Emphasis description.

Items 15b-e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b-e are considered cost-sharing or ''matching funds.'' The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific area of emphasis description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. ''Is Application Subject to Review by State Executive Order 12372 Process? Yes.''—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. ''Is Application Subject to Review by State Executive Order 12372 Process? No.''—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. ''Is the Applicant Delinquent on any Federal Debt?''—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. ''To the best of my knowledge and belief, all data in this application/pre-application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.''—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. ''Typed Name of Authorized Representative, Title, Telephone Number''—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. ''Signature of Authorized Representative''—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. ''Date Signed''—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering; (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 15 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period of 17 months or less or (2) the first-year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, ''Other.''

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, ''Other.''

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, ''equipment'' is tangible, non-expendable personal property having a useful life of more than one year and acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including; (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, ''Other.''

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use;

training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter ''none.'' Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled ''Totals.'' In-kind contributions are defined in title 45 of the Code of Federal Regulations, §§ 74.51 and 92.24, as ''property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.''

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column ''(b) First.'' If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under ''(c) Second.'' Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Description

The Project Description is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the Area of Emphasis description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) Objectives and Need for Assistance;

(b) Results and Benefits Expected;

(c) Approach; and

(d) Organization Profile.

The specific information to be included under each of these headings is described in Section G of Part III, General Instructions for the Uniform Project Description.

The narrative should be typed double-spaced on a single-side of an 8½″ x 11″ plain white paper, with 1″ margins on all sides, using black print no smaller than 12 pitch or 12 point size. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives and Need for Assistance'' as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. This will be strictly enforced. A page is a single side of an 8½″ x 11″ sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

4. Part V—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. Applicants must also provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and

Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

In addition, applicants are required under section 162(c)(3) of the Act to provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who will receive services under projects assisted under Part E will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities). Each application must include a statement providing this assurance.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

E. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different Area of Emphasis are packaged separately;
—Application is from an organization which is eligible under the eligibility requirements defined in the Priority Area description (screening requirement);
—Application length does not exceed 60 pages, unless otherwise specified in the Priority Area description.

A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–88);
—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.
—Budget Information—Non-Construction Programs (SF 424A, REV 4–88);
—Budget justification for Section B—Budget Categories;
—Table of Contents;
—Letter from the Internal Revenue Service, etc. to prove non-profit status, if necessary;
—Copy of the applicant's approved indirect cost rate agreement, if appropriate;
—Project Description (See Part III, Section C);
—Any appendices/attachments;
—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);
—Certification Regarding Lobbying; and
—Certification of Protection of Human Subjects, if necessary.
—Certification of the Pro-Children Act of 1994; signature on the application represents certification.

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

G. Paper Reduction Act of 1995 (Pub. L. 104–13)

The Uniform Project Description information collection within this announcement is approved under the Uniform Project Description (0970–0139), Expiration Date 12/31/2003.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: May 4, 2001.

Sue Swenson,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 01–11762 Filed 5–9–01; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–5522]

Food Irradiation Coalition c/o National Food Processors Association; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by the National Food Processors Association (NFPA) on behalf of The Food Irradiation Coalition, to provide for the safe use of ionizing radiation for control of food-borne pathogens, and extension of shelf-life, in a variety of human foods up to a maximum irradiation dosage of 4.5 kilograys (kGy) for non-frozen and non-dry

FOR FURTHER INFORMATION CONTACT: Lane A. Highbarger, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3032.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 5, 2000 (65 FR 493), FDA announced that a food additive petition (FAP 9M4697) had been filed by the NFPA on behalf of The Food Irradiation Coalition, 1350 I St. NW., suite 300, Washington, DC 20005, proposing that the food additive regulations in part 179 Irradiation in the Production, Processing and Handling of Food (21 CFR part 179) be amended to provide for the safe use of ionizing radiation for control of food-borne pathogens, and extension of shelf-life, in a variety of human foods up to a maximum irradiation dosage of 4.5 kGy for non-frozen and non-dry products, and 10.0 kGy for frozen or dry products, including: (1) Pre-processed meat and poultry; (2) both raw and pre-processed vegetables, fruits, and other agricultural products of plant origin; (3) certain multi-ingredient food products. The notice stated that the petition does not cover products composed in whole or in part of raw meat, poultry, or fish nor does it cover ''ready-to-eat'' fish products or ingredients made from fish.

Subsequent to the publication of the filing notice, FDA learned from discussions with NFPA that the petitioner intended to include in the scope of the petition certain multi-ingredient products that contain uncooked meat or poultry. In particular, the petitioner noted a clarifying letter, dated October 18, 1999, that it had submitted prior to FDA's filing the petition, that mentioned certain foods, such as country hams and dry and semi-dry sausages, as examples of foods intended to be within the scope of the petition. In preparing the filing notice, FDA did not recognize that these products are uncooked and, thus, mistakenly excluded such products by virtue of the exclusion for food containing raw meat or poultry. The petitioner recently informed FDA that the January, 2000, filing notice would

appear to restrict the scope of the petition and that it was (and is) the petitioner's intent that multi-ingredient meat products (whether containing cooked or uncooked meat or poultry) be included in the scope of the pending petition.

Therefore, FDA is amending the filing notice of January 5, 2000, to indicate that the petitioner has requested that the food additive regulations be amended to permit the irradiation of multi-ingredient foods containing uncooked meat or poultry.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 20, 2001.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–11733 Filed 5–9–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–379]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: The Financial Statement of Debtor and Supporting Regulations in 42 CFR, Section 405.376;

Form No.: HCFA–379 (OMB# 0938–0270);

Use: This form is used to collect financial information which is needed to evaluate requests from physicians/suppliers to pay indebtedness under an extended repayment schedule, or to compromise a debt less than the full amount.;

Frequency: Other: As needed;

Affected Public: Business or other for-profit, and Individuals or Households;

Number of Respondents: 500;

Total Annual Responses: 500;

Total Annual Hours: 1,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, HCFA–379, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 2, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11735 Filed 5–9–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–142]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements Contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor and HCFA–1005–IFC, PPS for Hospital Outpatient Services and Supporting Regulations Contained in 42 CFR 488.18, 489.20 and 489.24; *Document No.:* HCFA–R–142 (OMB# 0938–0667); *Use:* The Information Collection Requirements contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor and HCFA–1005–IFC, contains requirements for hospitals to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate and protect the public. This information is not contained elsewhere in regulations. *Frequency:* On occasion; *Affected Public:* Individuals or Households, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 5,600; *Total Annual Responses:* 5,600; *Total Annual Hours Requested:* 1.

It should be noted, that based on industry input and HCFA analysis, the applicability and burden associated with the information collection requirements (ICR) captured in this submission have been adjusted to properly reflect the degree of burden associated with this collection. In particular, the ICRs captured in this submission have been determined to be either exempt or the burden has been deemed usual and customary in accordance with the 1995 PRA. In order to comply and properly reflect the Act, HCFA assigned a token one-hour of burden for this submission.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, HCFA–R–142, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 1, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11737 Filed 5–9–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0299]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* A Project to Develop an Outcome-Based Continuous Quality Improvement System for PACE; *Form No.:* HCFA–R–0299 (OMB# 0938–0791); *Use:* The purpose of this project is to develop an outcome-based continuous quality improvement (OBCQI) system and core comprehensive assessment data set for the PACE program by (a) developing and testing a set of data items for core outcome and comprehensive assessment (COCOA), (b) testing risk adjustment methods so each site's outcomes can be appropriately evaluated, (c) designing an OBCQI approach to improve quality in a systematic, evolutionary manner, and (d) testing the usefulness of the data items for assessment and care planning. A three-phase, 20-month field test will result in the refinement of the draft COCOA data items and protocols as needed. Findings from the project are intended to guide the possible implementation of a national approach for OBCQI and core comprehensive assessment for PACE; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, Individuals or households; *Number of Respondents:* 8,298; *Total Annual Responses:* 93,970; *Total Annual Hours:* 21,692.04.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Date: April 23, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11736 Filed 5–9–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10029]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Medicare Program Integrity Customer Service Project; *Form No.:* HCFA–10029 (OMB# 0938–NEW); *Use:* Medicare's Integrity Program seeks to improve customer service provided to beneficiaries and providers. The study's purpose is to identify baseline satisfaction with Program Integrity efforts, to prioritize improvement areas, and to identify potential service delivery changes that can be implemented by HCFA or its contractors. Respondents include beneficiaries whose billing questions were transferred to Fraud, and providers who have been through enrollment, medical review, or cost report audit; *Frequency:* Annually; *Affected Public:* Individuals or households, Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 5,250; *Total Annual Responses:* 5,250; *Total Annual Hours:* 782. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to

Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 23, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11738 Filed 5–9–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10037]

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 the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with the Supreme Court's decision in *Olmstead* v. *L.C.*, (119 S.Ct. 2176 (1999) required States to provide community-based services for persons with disabilities who would otherwise receive services in an institutional setting under certain circumstances. We cannot reasonably comply with the normal clearance procedures because of the potential for public harm: the funds set aside for the grants would revert to the general fund and States, together with their disability and aging communities that have already undertaken extensive planning efforts for these grant opportunities, would be significantly harmed.

HCFA is requesting OMB review and approval of this collection by May 22, 2001, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by May 21, 2001. 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:* Real Choice Systems Change Grants; Nursing Facility Transition/Access Housing Grants; Community Personal Assistance Service and Supports Grants, National Technical Assistance and Learning Collaborative Grants to Support Systems Change for Community Living; *Form No.*: HCFA–10037 (OMB# 0938–XXXX); *Use:* Information sought by CMSO/DEHPG is needed to award competitive grants to States and other eligible entities for the purposes of designing and implementing effective and enduring improvements in consumer-directed long term service and support systems; *Frequency:* Annually; *Affected Public:* State, local or tribal gov.; *Number of Respondents:* 76; *Total Annual Responses:* 76; *Total Annual Hours:* 7600.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

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 May 21, 2001:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262, Attn: Julie Brown HCFA–10037

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: Brenda Aguilar, HCFA Desk Officer.

Dated: May 7, 2001.

Julie Brown,

Acting HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–11906 Filed 5–8–01; 1:31 pm]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Program Support Center (PSC), publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following information collection was recently submitted to OMB:

1. Application Packets for Real Property for Public Health Purposes (Form Number: HHS 696)—Revision.

The Department of Health and Human Services administers a program to convey or lease surplus real property to States and their political subdivisions and instrumentalities, to tax-supported institutions, and to nonprofit

institutions to be used for health purposes. State and local governments and nonprofit organizations use these applications to apply for excess/surplus, underutilized/unutilized and off-site Government real property. Information in the applications is used to determine eligibility to purchase, lease, or use property under the provisions of the surplus property program. The application instructions for the homeless or public health purposes are being revised to clarify some of the questions which will assist reviewers in making more informed determinations. No changes are being proposed for the environmental information form used to evaluate potential environmental effects of a proposal as required by the National Environmental Policy Act of 1969. *Respondents:* State, local or tribal governments; not-for-profit institutions; *Total Number of Respondents:* 32 per calendar year; *Number of Responses per Respondent:* one response per request; *Average Burden per Response:* 200 hours; *Estimated Annual Burden:* 6,400 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection package listed above can be obtained by calling the PSC Reports Clearance Officer on (301) 443–1494. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Irene S. West, PSC Reports Clearance Officer, Room 17A18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 30 days of this notice.

Dated: May 1, 2001.

Curtis L. Coy,

Director, Program Support Center.

[FR Doc. 01–11734 Filed 5–9–01; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4572–D–18]

Order of Succession

AGENCY: Office of the Chief Officer, HUD

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Chief of Staff for the Department of Housing and Urban Development designates the Order of Succession for the office of Chief Financial Officer.

EFFECTIVE DATES: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Maureen Harris, Administrative Officer, Office of the Chief Financial Officer, Department of Housing and Urban Development, Room 2104, 451 7th Street, SW, Washington, DC 20410, (202) 708–0313. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Chief of Staff for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Chief Financial Officer when, by reason of absence, disability, or vacancy in office, the Chief Financial Officer is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 USC 3345–3349d.

Accordingly, the Chief of Staff designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Chief Financial Officer is not available to exercise the powers or perform the duties of the Chief Financial Officer, the following officials within the Office of the Chief Financial Officer are hereby designated to exercise the powers and perform the duties of the Office:

(1) Senior Advisor to the Chief Financial Officer;

(2) Assistant Chief Financial Officer for Budget.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the Office of the Chief Financial Officer, published at 65 FR 51016 (August 22, 2000).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d)

Dated: May 3, 2001.

Daniel R. Murphy,

Chief of Staff, Department of Housing and Urban Development.

[FR Doc. 01–11743 Filed 5–9–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Permit Application and Safe Harbor Agreement Between the Fish and Wildlife Service and Caroline H. Paterson and Thomas W. Paterson

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and 30-day public comment period.

SUMMARY: Caroline H. and Thomas W. Paterson (Applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act (Act). The Applicants have been assigned permit number TE–035920–0. The requested permit, which is for a period of 30 years, would authorize the take of the following species: endangered southwestern willow flycatcher and Mexican gray wolf; threatened bald eagle, Mexican spotted owl, and loach minnow. The proposed take could occur as a result of conservation measures implemented on Spur Ranch, consisting of riparian restoration activities along Centerfire Creek, including planting native vegetation; grade control structures in Centerfire Creek to control erosion and downcutting; and upland management activities designed to improve overall habitat health, including prescribed burning, selective timber harvesting, and controlled grazing. Currently, none of the species mentioned above are known to occur on the property. The Applicants in cooperation with the Service have prepared the Safe Harbor Agreement (SHA) to provide a conservation benefit to the species and allow for the take of these species. Based upon guidance in the Service's June 17, 1999, Final Safe Harbor Policy, if a SHA and associated permit are not expected to individually or cumulatively have a significant impact on the quality of the human environment or other natural resources, the Agreement/permit may be categorically excluded from undergoing National Environmental Policy Act review. The Spur Ranch SHA qualifies as a ''Low Effect'' SHA, thus, this action is a categorical exclusion. The ''Low Effect'' determination for the Spur

Ranch SHA is also available for public comment. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before June 11, 2001.

ADDRESSES: Persons wishing to review the application, SHA, and ''Low Effect'' determination may obtain copies by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103, or by contacting Denise Smith, New Mexico Ecological Services Field Office, 2105 Osuna Road, Albuquerque, New Mexico 87113 (505/346–2525). Documents relating to the application will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, Albuquerque, New Mexico.

Written data or comments concerning the application and SHA should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, Albuquerque, New Mexico, at the above address. Please refer to permit number TE–035920–0 (Paterson) when submitting comments.

FOR FURTHER INFORMATION CONTACT: Denise Smith at the above U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, Albuquerque, New Mexico (505) 346–2525.

SUPPLEMENTARY INFORMATION:

Background

Caroline H. and Thomas W. Paterson (Applicants) plan to implement conservation measures on Spur Ranch, a 309 acre parcel of land northeast of Luna, Catron County, New Mexico. The conservation measures will improve riverine, riparian, and upland habitat through improving water quality, reducing sedimentation, and establishment of native riparian vegetation. The SHA as currently written is expected to provide a net conservation benefit to the five species for which it is written. The SHA will provide protection to the Applicants against further regulation under the Endangered Species Act in the event that any of the covered species should occupy the Patersons' land as a result of implementation of the proposed conservation measures.

Section 9 of the Act prohibits the ''taking'' of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22 and 50 CFR 17.22 for threatened species.

Thomas L. Bauer,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–11756 Filed 5–9–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for the Housing Assistance Application requires renewal. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review after a public comment period, as required by the Paperwork Reduction Act of 1995. The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before July 9, 2001.

ADDRESSES: Interested parties are invited to submit written comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to June Henkel, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4660–MIB, Washington, DC 20240. E-mail should be sent to JuneHenkel@bia.gov. Fax: (202) 208–2648. Telephone: (202) 208–3667. (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instructions should be directed to June Henkel, 202–208–3667.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is needed to establish whether an applicant is eligible to receive services under the HIP and to establish the priority order in which eligible applicants may receive services under the program.

II. Method of Collection

The housing regulations at 25 CFR part 256 contain the program eligibility and selection criteria (§§ 256.6, 256.8, 256.9, 256.10, 256.14) which prospective applicants seeking program services must demonstrate that they meet. Information collected from applicants under these regulations provides eligibility and selection data used by the local servicing housing office to establish whether an applicant is eligible to receive services. The local servicing housing office may be a tribal housing office under a Public Law 93–638, Indian Self-Determination contract or a Self-Governance annual funding agreement, or the Bureau of Indian Affairs. Additionally, the data is used by the Assistant Secretary—Indian Affairs to establish whether a request for waiver of a specific housing regulation is in the best interest of the applicant and the Federal Government.

III. Data

(1) *Title of the Collection of Information:* Department of the Interior, Bureau of Indian Affairs, Housing Assistance Application.

OMB Number: 1076–0084.

Expiration Date: September 30, 2001.

Type of Review: Renewal of a currently approved information collection.

(2) *Summary of the Collection of Information:* The collection of information provides pertinent data concerning an applicant's eligibility to receive services under the Housing Improvement Program and includes:

A. Applicant Information including: Name, Current Address, Telephone Number, Date of Birth, Tribe, Roll Number, Marital Status, Name of Spouse, Date of Birth (of spouse), Tribe (of spouse), and Roll Number (of Spouse).

B. Family Information including: Name, Date of Birth, Relationship to Applicant, and Tribe/Roll Number.

C. Income Information: Earned and Unearned Income.

D. Housing Information including: Location of the house to be repaired, constructed or purchased; Description of housing assistance for which applying; Knowledge of receipt of prior Housing Improvement Program assistance, amount, to whom and when; Ownership or rental; Availability of electricity and name of electric company; Type of sewer system; Water source; Number of bedrooms; Size of house; and, Bathroom facilities.

E. Land Information including: Land owner; Legal status of land; or Type of interest in land.

F. General Information including: Prior receipt of services under the Housing Improvement Program and description of such; Ownership of other housing and description of such, Identification of Housing and Urban Development (HUD) funded house and current status of project; Identification of other sources of housing assistance for which the applicant has applied and been denied assistance if applying for a new housing unit or purchase of an existing standard unit; and advisement and description of any severe health problem, handicap or permanent disability.

G. Applicant Certification including: Signature of Applicant and Date, and Signature of Spouse and Date.

(3) *Description of the need for the information and proposed use of the information:* Submission of this information is required in order to receive services under the Housing Improvement Program. The information is collected to determine applicant eligibility for services and applicant priority order to receive services under the program.

(4) *Description of likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:*

Description of likely respondents: Individual members of Indian tribes who are living on or near a tribally, or by law, defined service area.

Estimated number of respondents: 3,500.

Proposed frequency of response: Annually or less frequently, depending on length of waiting list, funding availability and dynamics of service population.

(5) *Estimate of total annual reporting and record keeping burden that will result from the collection:*

Estimated time per application: The reporting burden for this applicant is estimated to average ½ hour per response, including the time for reviewing the instructions, gathering and maintaining the data, and completing and reviewing the form.

Estimated Total Annual Reporting Burden Hours: 1,750 hours.

Estimated record keeping burden per application: The record keeping burden for tribes submitting eligible applicant data and not having or receiving funds to administer the program is estimated to average ½ hour per application, including the time for reviewing the application, determining applicant eligibility and priority ranking and summarizing data for submission.

Estimated Total Record Keeping Burden: 156 hours.

Estimated Total Record Keeping Costs: $2,431 (117.5 hours × $20.69 per hour).

IV. Request for Comments

The Department of the Interior invites comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and,

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and, to transmit or otherwise disclose information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record. All written comments will be available for public inspection in Room 4660 of the Main Interior Building, 1849 C Street, NW, Washington, DC, from 9:00 a.m. until 4:00 p.m., Monday through Friday, excluding legal holidays. 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 Office of Management and Budget control number.

Dated: April 30, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–11752 Filed 5–9–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930; COC–48469]

Public Land Order No. 7485; Extension of Public Land Order No. 6846; CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order extends Public Land Order No. 6846 for an additional 10-year period. This extension is necessary to continue the protection of the Wild and Scenic River values in the South Platte River. These lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 12, 2001.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 6846, which withdrew National Forest System lands to protect the Wild and Scenic River values in a 9-mile segment of the South Platte River corridor, is hereby extended for an additional 10-year period following its date of expiration.

2. This withdrawal will expire 10 years from the effective date of this order unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: April 12, 2001.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 01–11739 Filed 5–9–01; 8:45 am]

BILLING CODE 3410–11–P

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731–TA–726, 727, and 729 (Review)

Polyvinyl Alcohol From China, Japan, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in April 2001 to determine whether revocation of the antidumping duty orders on polyvinyl alcohol from China, Japan, and Taiwan would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On May 3, 2001, the Department of Commerce published notice that it was revoking the orders ''[b]ecause no domestic interested party responded to the sunset review notice of initiation by the applicable deadline'' (66 FR 22145). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), the subject reviews are terminated.

EFFECTIVE DATE: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at http://dockets.usitc.gov/eol/public

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

Issued: May 4, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–11845 Filed 5–9–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–404–408 (Final) and 731–TA–898–908 (Final)]

Hot-Rolled Steel Products From Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigations Nos. 701–TA–404–408 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from Argentina, India, Indonesia, South Africa, and Thailand of hot-rolled steel products, provided for in headings 7208, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States. Notice is also hereby given of the scheduling of the final phase of antidumping investigations Nos. 731–TA–898–908 (Final) under section 735(b) of the Act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine of hot-rolled steel products.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Argentina, India, Indonesia, South Africa, and Thailand of hot-rolled steel products, and that such products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 13, 2000, by Bethlehem Steel Corp. (Bethlehem, PA); Gallatin Steel Corp. (Ghent, KY); IPSCO Steel, Inc. (Lisle, IL); LTV Steel Co., Inc. (Cleveland, OH); National Steel Corp. (Mishawaka, IN); Nucor Corp. (Darlington, SC); Steel Dynamics, Inc. (Butler, IN); U.S. Steel Group (a unit of USX Corp.) (Pittsburgh, PA); Weirton Steel Corp. (Weirton, WV); and the Independent Steel Workers Union, a labor union representing the organized workers at Weirton Steel Corp.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided

that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 5, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 17, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 11, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 13, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 11, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 24, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 24, 2001. On August 13, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 15, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: May 7, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–11846 Filed 5–9–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

ETA–5130 Benefit Appeals Report; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the ETA–5130 Benefit Appeals Report. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 9, 2001.

ADDRESSES: Jack Bright, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room S–4516, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–3214 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The ETA–5130, Benefit Appeals Report, contains information on the number of unemployment insurance appeals and the resultant decisions classified by program, appeals level, cases filed and disposed of (workflow), and decisions by level, appellant and issue. The data on this report is used by both the Regional and National Office Unemployment Insurance staff to monitor the benefit appeals process in the State Employment Security Agencies (SESAs) and to develop any needed plans for remedial action. The data is also needed for workload budgeting and to determine administrative funding. If this information were not available, developing problems might not be discovered early enough to prevent the solutions from being extremely time consuming and costly.

Nearly all States now collect, store and report this data with automated systems. Consequently, the burden hours and burden costs for operation and maintenance have been reduced accordingly.

II. Review Focus

The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Continued collection of the ETA–5130 data will provide for continuous monitoring of the SESAs appellate processes and needed data for the budgeting and administrative funding activities. The data is collected monthly so that developing backlogs of undecided appeals can be detected as early as possible.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Benefit Appeals Report.

OMB Number: 1205–0172.

Agency Number: ETA–5130.

Affected Public: State Governments.

Total Respondents: 53.

Frequency: Monthly.

Total Responses: 636.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 636 hours.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $15,900.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 1, 2001.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 01–11796 Filed 5–9–01; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Conference Call

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for a working group of NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

INTERNATIONAL WATCH: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

WORK GROUP: International Convention on the Human Rights of People with Disabilities.

DATE AND TIME: May 30, 2001, 12 p.m.–1 p.m. EDT.

FOR INTERNATIONAL WATCH INFORMATION, CONTACT: Kathleen A. Blank, Attorney/Program Specialist, NCD, 1331 F Street NW., Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), *kblank@ncd.gov* (e-mail).

AGENCY MISSION: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

OPEN MEETINGS/CONFERENCE CALLS: This advisory committee meeting/conference call of NCD will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on May 7, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–11807 Filed 5–9–01; 8:45 am]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Advanced Reactor Subcommittee Workshop on Regulatory Challenges for Future Nuclear Power Plants; Notice of Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on June 4–5, 2001 in the NRC Auditorium in Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The Subcommittee will discuss matters related to regulatory challenges for future nuclear power plants. The Subcommittee meeting will be conducted as a workshop, with presentations, panel discussions, and participation by the workshop attendees. The meeting schedule is as follows:

Monday, June 4, 2001—9 a.m. to 7 p.m.

1. *Introduction*—G. Apostolakis and T. Kress: 9 a.m.–9:15 a.m.
2. *Keynote Address by Commissioner Nils Diaz:* 9:15 a.m.–10 a.m.

Break—10 a.m.–10:15 a.m.

3. *DOE Presentations*
   - Overview and Introduction to Generation IV Initiative—W. Magwood, DOE: 10:15 a.m.–10:40 a.m.
   - Generation IV Goals and Roadmap Effort—R. Versluis, DOE: 10:40 a.m.–11 a.m.
   - Near-Term Deployment Efforts—T. Miller, DOE: 11 a.m.—11:25 a.m.
   - Generation IV Concepts—R. Versluis, DOE: 11:25 a.m.–11:40 a.m.
   - Next Steps Generation III+/IV—S. Johnson, DOE: 11:40 a.m.–12 p.m.

Lunch—12 p.m–1 p.m.

4. *Generation IV Design Concepts*
   - Pebble Bed Modular Reactor—J. Muntz, Exelon: 1 p.m.–1:45 p.m.
   - International Reactor Innovative and Secure—M. Carelli, Westinghouse: 1:45 p.m.–2:30 p.m.
   - General Atomic-Gas Turbine/Modular Helium Reactor—L. Parme, General Atomics: 2:30 p.m.–3:15 p.m.

Break—3:15 p.m.–3:30 p.m.

   - General Electric-Advanced Liquid Metal Reactor and ESBWR designs—C. Boardman, General Electric: 3:30 p.m.–4:15 p.m.

5. *NRC Presentations*
   - NRC Response to Commission Direction on Evaluation of NRC Licensing Infrastructure (NRR/RES/NMSS)—M. Gamberoni, NRC–NRR: 4:15 p.m.–5:15 p.m.

Planned RES Activities—A. Thadani, NRC–RES: 5:15 p.m.–6 p.m.

6. *Panel Discussion on Industry and NRC Licensing Infrastructure Needed for Generation IV Reactors:* 6 p.m.–7 p.m.
Panelists: A. Thadani, NRC, S. Johnson, DOE, J. Muntz, Exelon, M. Carelli, Westinghouse, L. Parme, General Atomics, C. Boardman, General Electric

Tuesday, June 5, 2001–8:30 a.m. to 6:45 p.m.

1. *Introduction*—G. Apostolakis and T. Kress: 8:30 a.m.–8:45 a.m.
2. *NEI Advanced Reactors Initiatives*—Presentation by R. Simard, NEI: 8:45 a.m.–9:30 a.m.
3. *Technical Presentations*: 9:30 a.m.–4 p.m.
Safety Goals for Future Nuclear Power Plants—N. Todreas, MIT: 9:30 a.m.–10:30 a.m.
Break—10:30 a.m.–10:45 a.m.
Future Reactor Licensing by Test—A. Kadak, MIT: 10:45 a.m.–11:45 a.m.
NERI Project on Risk-Informed Regulation—G. Davis, Westinghouse and M. Golay, MIT: 11:45 a.m.–12:45 p.m.

Lunch—12:45 p.m.–2 p.m.

Advanced Safety Concepts—C. Forsberg, ORNL: 2 p.m.–3 p.m.
Regulatory Framework for Future Nuclear Power Plants—A. Heymer, NEI: 3 p.m.–4 p.m.

Break—4 p.m.–4:15 p.m.

4. *ACRS and Panel Discussion with Audience Participation The Most Important Regulatory Challenges for the Licensing of Future Nuclear Power Plants:* 4:15 p.m.–6:30 p.m.
Panelists: N. Todreas, MIT, R. Barrett, NRR, E. Lyman, NCI, R. Simard, NEI
5. *Conclusions*—Apostolakis, Kress, et al: 6:30 p.m.–6:45 p.m.

The meeting schedule and scheduled speakers is subject to change as necessary. Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat M. El-Zeftawy (telephone 301–415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 4, 2001.

Howard J. Larson,

Special Assistant, ACRS/ACNW.

[FR Doc. 01–11754 Filed 5–9–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Form S–3, OMB Control No. 3235–0073, SEC File No. 270–61
Form S–8, OMB Control No. 3235–0066, SEC File No. 270–66

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Form S–3 is used by issuers to register securities pursuant to the Securities Act of 1933. The Commission uses very little of the information it collects, except on an occasional basis in the enforcement of the securities laws. The likely respondents will be companies. The information must be filed with the Commission on occasion. Form S–3 is a public document. All information provided is mandatory. Approximately 3,483 issuers file Form S–3 at an estimated 398 hours per response for a total annual burden of 1,385,934 hours.

Form S–8 is a primary registration statement used by qualified registrants to register securities issuers in connection with employee benefit plans. Form S–8 provides verification of compliance with securities law requirements and assures the public availability and dissemination of such information. The likely respondents will be companies. The information must be filed with the Commission on occasion. Form S–8 is a public document. All information provided is mandatory. Approximately 1,660 issuers file Form S–8 at an estimated 24 hours per response for a total annual burden of 39,840 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 3, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11798 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27395]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

May 4, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 29, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 29, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alabama Power Company et al. (70–8461)

Alabama Power Company (''Alabama''), 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company (''Georiga''), 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308, Gulf Power Company

(''Gulf''), 500 Bayfront Parkway, Pensacola, Florida 32501, Mississippi Power Company (''Mississippi''), 2992 West Beach, Gulfport, Mississippi 39501, and Savannah Electric and Power Company (''Savannah''), 600 East Bay Street, Savannah, Georgia 31401, (together, ''Operating Companies'') all electric public utility subsidiaries of The Southern Company, a registered holding company, have filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 54 under the Act.

By order dated December 7, 1998 (HCAR No. 26949) (''December 1998 Order''), Alabama received authority ot issue $500,000,000 in preferred securities through December 31, 2005. Alabama has issued $50,000,000 in preferred securities under this authorization to date. Alabama now requests an extension of time to issue the remaining $450,000,000 in preferred securities through June 30, 2007 (''Authorization Period'').

Georgia received authority in the December 1998 Order to issue $310,750,000 in preferred securities through December 31, 2005. Georgia has issued $310,750,000 in preferred securities under this authorization to date. Georgia now requests authority to issue an additional $389,250,000 for an aggregate amount of $500,000,000 in preferred securities and an extension of time to issue these securities through the Authorization Period.

By order dated January 16, 1998 (HCAR No. 26817), Gulf received authority to issue $50,000,000 in preferred securities through December 31, 2005. Gulf has issued $45,000,000 in preferred securities under this authorization to date. Gulf now requests authority to issue an additional $95,000,000 for an aggregate amount of $100,000,000 in preferred securities and an extension of time to issue these securities through the Authorization Period.

Mississippi received authority to issue $75,000,000 in preferred securities through December 31, 2005. Mississippi has not issued any of these securities to date. Mississippi now requests authority to issue an additional $25,000,000 for an aggregate of $100,000,000 in preferred securities and an extension of time to issue these securities through the Authorization Period.

Savannah currently has no authority to issue preferred securities. Savannah received authority under the December 1998 Order to issue $40,000,000 in preferred securities and has issued the total amount authorized. Savannah now requests authority to issue an additional $50,000,000 in preferred securities through the Authorization Period.

The Operating Companies will use the proceeds from the sale of the preferred securities in connection with their ongoing construction programs, to pay scheduled maturities and/or refundings of their securities, to repay short-term indebtedness to the extent outstanding and for other general corporate purposes.

National Grid Group plc, et al (70–9829)

National Grid Group plc (''National Grid''), a registered holding company, located at 15 Marylebone Road, London, NW15JD, United Kingdom, together with its direct and indirect registered holding company subsidiaries (''Intermediate Companies'') National Grid (US) Holdings Limited, National Grid (US) Investments, both located at 15 Marylebone Road, London, NW15JD, United Kingdom, National Grid (Ireland) 1 Limited, National Grid (Ireland) 2 Limited, both located at 6 Avenue Pasteur, L 2310, Luxembourg, National Grid General Partnership, located on the 8th Floor of the Oliver Building, 2 Oliver Street, Boston, Massachusetts 02109, and National Grid USA, a registered holding company, a direct subsidiary of National Grid General Partnership and an indirect subsidiary of the other Intermediate Companies (collectively, ''Applicants''), located at 25 Research Drive, Westborough, Massachusets 01582, have filed an application-declaration under sections 6(a) 7, 9(a), 10, 12(b) and 12(f) of the Act and rules 45(a) and 54 under the Act.

Applicants request authority for National Grid to increase the aggregate amount of convertible bonds that it may issue through May 31, 2003 (''Authorization Period'') to $2 billion.[1] National Grid will continue to maintain an overall $4 billion limit on the securities it issues, excluding guaranties. The convertible bonds would be exchangeable into ordinary shares of other securities.[2] Consistent with the terms of the Prior Order, the interest rate on these debt securities would not exceed 300 basis points over that for U.S. treasury securities having comparable maturities,[3] and the maturities of these debt securities would not exceed fifty years. Applicants state that these additional bonds would be issued and sold if market conditions are favorable, and the proceeds from these sales would be used to retire existing debt and for purposes previously approved by the Commission in the Prior Order.[4]

Applicants also request authority, through the Authorization Period, for National Grid and its subsidiaries that are outside of the National Grid USA ownership chain, including National Grid Holdings Limited and its direct and indirect subsidiaries (collectively, ''FUCO Subsidiaries''), to acquire the debt securities of the Intermediate Companies and National Grid USA. The intrasystem loans would be unsecured and would have short-, medium- and long-term maturities depending on how the proceeds would be used. Short-term loans would be less than one year in maturity, medium-term loans would have maturities up to five years, and long-term loans would have maturities of up to fifty years. Loans to National Grid USA from any company in the National Grid system would be at interest rates designed to parallel the effective cost of debt capital of National Grid. Applicants state that the interest rates paid by National Grid USA on these loans should not result in an increase in the cost of capital used by the National Grid USA group and that, if it is discovered that this lending rate is higher than the cost of funds National Grid USA would incur in a direct borrowing at that time from nonassociates, the interest rate applied to National Grid USA borrowings would be based on that lower cost of funds. The maturities of borrowings by the Intermediate Companies from National Grid or a FUCO Subsidiary may be short-, medium- or long-term. All of the proposed borrowings would be unsecured. The proceeds of these loans would be used to meet the short-term working capital requirements of National Grid USA and its subsidiaries.

[1] By order dated March 15, 2000. The Commission authorized National Grid to, among other things, issue up to $1 billion in convertible bonds through the Authorization Period, subject to the limitation that the aggregate amount at any one time outstanding of all its equity and debt securities will not exceed $4 billion. *See National Grid Group plc*, HCAR No. 27154 (''Prior Order'').

[2] Applicants state that it is presently intended that the bonds would be exchangeable for ordinary shares of Energis plc, a National Grid subsidiary engaged in telecommunications in the U.K. and certain other countries.

[3] If the debt securities are issued in a non-U.S. currency, the rate would be based on the government benchmark for the related currency.

[4] Specifically, Applicants state that National Grid would use the proceeds from these sales to acquire, retire, or redeem securities issued by National Grid or its United States subsidiaries, or for necessary and urgent corporate purposes such as extending or renewing debt related to its prior acquisition of New England Electric System Merger-Related Debt, financing capital expenditures by its subsidiaries, financing the working capital requirements of its system, acquiring or funding the operations of exempt wholesale generators and foreign utility companies.

Further, Applicants request authority for the Intermediate Companies, through the Authorization Period, to enter into currency derivatives with National Grid and the FUCO Subsidiaries. National Grid represents that these transactions will meet the criteria established by the Financial Accounting Standards Board in order to qualify for hedge-accounting treatment, or will so qualify under generally accepted accounting principles in the United Kingdom (''U.K. GAAP''). If these proposed transactions qualify for hedge accounting treatment under U.K. GAAP, but not under generally accepted accounting principles in the United States (''U.S. GAAP''), National Grid's financial statements filed in accordance with Form 20–F will contain a reconciliation of the difference between the two methods of accounting treatment. National Grid further states that no gain or loss on a hedging transaction attributable to a company outside the National Grid USA Group will be allocated to any company in the National Grid USA Group, regardless of the accounting treatment accorded to the transaction. These proposed derivative transactions are designed to facilitate the equity financing of the Intermediate Companies and accommodate foreign exchange hedging. Applicants state that losses incurred by any Intermediate Company in connection with these swaps, and the associated tax effects, would not be transferred down the Intermediate Company chain to National Grid USA, and consequently would not adversely affect National Grid USA or any of its subsidiaries.

The Commission's equity capitalization standard and all other terms of the Prior Order, with the exception of the proposed increase in the aggregate amount of convertible bonds to be issued, would continue to apply.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11799 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44256; File No. SR–Amex–2001–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC Relating to Independent Director and Audit Committee Requirements

May 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2001, the American Stock Exchange LLC (''Amex'' 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 Amex. 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 Amex proposes to amend Section 121 of the *Amex Company Guide* to clarify that domestic listed companies are required to have a sufficient number of independent directors on their board of directors to satisfy the Exchange's audit committee. The text of the proposed rule change is set forth below. New text is in italics.

* * * * *

Section 121. INDEPENDENT DIRECTORS AND AUDIT COMMITTEE

A. Independent Directors

The Exchange requires that domestic listed companies have a sufficient number of independent directors *on the company's board of directors* to satisfy the audit committee requirements set forth below. Independent directors are not officers of the company and are, in the view of the company's board of directors, free of any relationship that would interfere with the exercise of independent judgment. The following persons shall not be considered independent:

(a)–(e) No change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex 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 Amex 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 is proposing to amend Section 121A of the *Amex Company Guide* to clarify that each domestic listed company is required to have a sufficient number of independent directors on its board of directors to satisfy the audit committee requirements specified in part B of Section 121. Section 121 was amended in December 1999 to implement the recommendations contained in the February 1999 report of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees[3] which were aimed at strengthening the independence of the audit committee, making the audit committee more effective, and addressing mechanisms for accountability among the audit committee, the outside auditors, and management.[4] Section 121, particularly when analyzed in conjunction with Section 120 of the *Amex Company Guide,* currently requires the independent directors referenced therein to be members of the company's board of directors.[5] However, inquiries from several listed companies have led the Exchange to conclude that there may be some confusion among the listed company community with respect to the requirement. Accordingly, to avoid further confusion, the Exchange is proposing to amend Section 121 to clarify that the independent directors must be members of the company's board of directors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Committee's Report is available online at www.amex.com.

[4] The audit committee requirements are being phased-in over an 18 month period for issuers that were listed on the Amex at the time the changes were adopted.

[5] Section 120 of the Amex Company Guide specifies that ''each company shall utilize [its] Audit Committee *or a comparable body of the Board of Directors* for the review of potential conflict of interest situations where appropriate'' (emphasis added).

Section 6(b)(5)[6] of the Act, which requires, among other things, the Exchange's rules to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[7] and subparagraph (f)(1) of Rule 19b–4 thereunder[8] because it constitutes as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2001–24 and should be submitted by May 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated athority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11801 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4(f)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44260; File No. SR–DTC–2001–03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Make Foreign Securities Eligible for Depository Services

May 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on, February 23, 2001, The Depository Trust Company (''DTC'') 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 primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow DTC to make eligible for depository services foreign securities that are presently eligible for the National Securities Clearing Corporation's (''NSCC'') foreign security comparison and netting service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide DTC and NSCC participants who are presently using NSCC's foreign securities clearing services the use, if applicable, of depository services at DTC for these securities. These securities are generally foreign ordinary equities that have been assigned security numbers (CINS) and NASD symbols to automate the comparison process. Most trades in foreign ordinary shares that are executed between two U.S. broker-dealers are forwarded to NASD's Automated Confirmation Transaction system and submitted as locked-in trades to NSCC.

Today, through NSCC's Foreign Securities Comparison and Netting system, foreign securities are compared and netted on a bilateral basis in a standardized and automated fashion through NSCC's over-the-counter system. Receive and deliver instructions are automatically generated by NSCC and are distributed to participants on the morning after comparison, which expedites the settlement process for non-U.S. equity transactions. Trades are netted on a bilateral participant-to-participant basis thereby reducing the number of deliveries for settlement in the local market. NSCC does not currently and will not under the proposed rule change guarantee the ultimate settlement of these transactions or the clearance cash adjustment.

Given the increase in activity over the last few years, U.S. broker-dealers have become concerned about the number of potential risk and operational issues associated with the current process, such as the lack of straight through processing (''STP'') from the point of trade to settlement. It is DTC's plan to enhance the settlement part of the process and to deliver an automated approach to complete the STP process from trade to settlement. In doing so, many operational issues will be minimized or eliminated.

Today, there is a separation between the physical movement of these foreign securities and the money settlement of the trades (*i.e.,* there is no delivery versus payment (''DVP'') as there is true for U.S. trades). The delivery of the

[9] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

securities occurs in the foreign markets and then some time later the payment is made in the U.S.

Currently, trades in these foreign securities executed in the U.S. must settle in the local market without the benefit of any of DTC's infrastructure. Therefore, U.S. based broker-dealers who trade in foreign securities in the U.s. must set up correspondent relationships in the local market. Additionally, the U.S. broker-dealers must each deal separately with the inherent inefficiencies, such as large time-zone differences, in this structure. Also, the need to set up such correspondent relationships puts smaller broker-dealers at a disadvantage because many smaller broker-dealers do not have the resources or trading volumes to justify such relationships and therefore must enlist a large broker-dealer to perform such services for their clients. As a result, trading costs for the underlying investors are increased.

DTC's plan is to open a custodial account in a local market with an agent bank or central securities depository (''CSD'') (collectively ''custodian'') that will hold shares on DTC's behalf. DTC's participants will be able to communicate with DTC with respect to foreign securities as they do today with respect to currently eligible U.S. securities. Due to differences in local market practice from that in the U.S., the eligibility procedures for foreign securities will likely differ from those currently used by DTC for eligible U.S. securities. However, participants will be made aware of this fact and of the eligibility criteria and procedures. These securities will be ''tagged'' in DTC's system in order for DTC participants to readily identify them.

DTC's first such link will be with Citibank N.A., Hong Kong Branch, acting as DTC's custodian.[2] Through the custodian, a participant would move overseas inventory from its current custodian into DTC's account at DTC's foreign custodian. Upon notification from its custodian that the foreign securities are being held in its account, DTC would update the participant's securities position at DTC. Once the position is on DTC's books and records, the participant would be able to move the position by book-entry DVP if desired. In addition, other activities, such as automated customer account transfer services and stock loan, that are currently available for U.S. securities would also be available for foreign securities once they are made DTC eligible.

The DTC Risk Management Committee will review this service before DTC goes live with it. The committee will use the same due diligence template that it has used on all ''outward bound'' links with foreign CSDs.

The principal benefits that will attend DTC's making these foreign securities eligible for certain depository services are: (1) connecting the delivery to the settlement on a DVP basis; (2) accelerating the speed of settlement of cross-border transactions in these foreign securities; (3) eliminating most physical movements of these foreign securities; (4) reducing costs and risks to DTC participants (DTC's providing these benefits to its participants is consistent with DTC's objective of providing efficient book-entry clearance and settlement facilities while at the same time reducing risks to its participants.); and (5) making these services available to a large number of U.S. entities (*i.e.,* DTC participants and their clients and customers).

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) and (F) of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change will reduce risks and associated costs to DTC participants. Further, the proposed rule change will be implemented and designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure safeguarding of securities and funds that are in the custody or control of DTC or for which DTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

This concept was presented to the operations and planning committee of DTC and DTC Board of Directors. A number of DTC firms have voiced strong support of this project at the Board level.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety 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 DTC 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, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–2001–03 and should be submitted by May 31, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11804 Filed 5–9–01 8:45 am]

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[2] DTC will submit a proposed rule change under Section 19(b) before establishing any new link with any foreign custodian.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44257; File No. SR–NASD–2001–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Institute an Automated Order Delivery Service on the OTCBB

May 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on April 12, 2001, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') 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 Nasdaq. 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

Nasdaq is proposing to implement an enhancement to the OTC Bulletin Board Service (''OTCBB''). Nasdaq proposes to create an automated order delivery service (''ODS'') that will enable OTCBB users to communicate electronically with one another to negotiate and confirm the execution of orders. This communication interface would offer an alternative to telephonic communication, which would increase the speed, efficiency, and quality of execution in the OTCBB. The proposed ODS would offer much of the functionality of the SelectNet service that is used for trading of Nasdaq National Market and SmallCap securities. Nasdaq states that SelectNet has proven to be a versatile and effective trading tool in those segments of the market.

The principal purpose of this enhancement is to supplement the existing capacity of market makers to consummate transactions pursuant to applicable trading rules. The ODS would enable member firms to communicate and confirm the execution terms of individual transactions electronically, just as they do by telephone today. The ODS would impose no new trading rules or obligations, but would permit market participants to comply more efficiently with existing rules and obligations, including best execution and firm quote obligations. Additionally, order executions negotiated through the ODS would automatically generate transaction reports for OTCBB issues and locked-in trades for clearance purposes.

The following paragraphs describe the history of the OTCBB, and also outline the major elements of the ODS enhancement.

Development and Operation of the OTCBB

The OTCBB is a regulated quotation service that displays real-time quotes, last-sale prices, and volume information in over-the-counter equity securities.[3] The OTCBB began operating on a pilot basis in June 1990 as part of market structure reforms designed to improve transparency in the over-the-counter equities market. The system was designed to facilitate the widespread publication of quotation and last-sale information. Since December 1993, firms have been required to report trades in all domestic OTC equity securities through the Automated Confirmation Transaction Service (''Act'') within 90 seconds of the transaction.

Today, the OTCBB provides an electronic quotation medium for subscribing members to reflect market making interest in OTCBB-eligible securities. The OTCBB currently allows market makers to use an authorized Nasdaq Workstation II (''NWII'') to update quotes, query positions, register in active stocks, and add or update telephone numbers. Market makers may access the service between 7:30 a.m. and 6:30 p.m. ET and may update quotes in domestic securities, foreign securities, and ADRs any time the system is in operation.[4]

Subscribing market makers can utilize the OTCBB to enter, update, and display their proprietary quotations in individual securities on a real-time basis. Such quotation entries may consist of a priced bid and/or offer, an unpriced indication of interest (including ''bid wanted'' or ''offer wanted'' indications), or a bid/offer accompanied by a modifier to reflect unsolicited customer interest. A subscribing market maker can also access the proprietary quotations that other firms have entered into the OTCBB Service along with highest bid and lowest offer (*i.e.,* an inside bid-ask calculation) in any OTCBB-eligible security with at least two market makers displaying two-aided markets. All priced quotes in domestic securities, foreign securities, and ADRs are firm; all quotes in DPPs are indicative.

Additionally, all NASD Level I members with Level 2/3 service may view OTCBB data without paying an additional charge beyond their NWII fees. However, only registered market makers are permitted to enter quotes and indications of interest.

Access to the ODS

Upon introduction, the ODS would be available to all NASD member firms that have authorized access to Nasdaq Level 2/3 through NWII terminals or through an Applications Programming Interface, and that have appropriate clearing arrangements through a registered national clearing agency. The ODS would be accessible for negotiation and confirmation of transactions in OTCBB issues during normal business hours for the OTCBB market (from 7:30 a.m. to 6:30 p.m. ET), although quotations would be required to be firm only between 9:30 a.m. and 4 p.m. During this period, the ODS would be continuously available for use by any eligible NASD market maker or order-entry firm. Registered OTCBB market makers would be unable to inhibit the receipt of ODS messages from other eligible NASD members between 9:30 a.m. and 4 p.m. ET, and orders received within a market maker's quoted price and size would be considered liability orders. Hence, an NASD member would be assured that communication can be established with a market marker during all market conditions and that transactions can be consummated without reliance on the telephone.

Use of the ODS

The ODS would provide an alternative medium for retail firms to contact market makers and for market makers to contact one another, to negotiate trades, and to confirm executions regardless of market conditions just as they do by telephone today. The establishment of the ODS would not impose any additional obligations beyond those already applicable to the market maker and NASD member in connection with telephonic transactions, such as the firm quote and best execution obligations.

Nasdaq has established some basic operational requirements for the ODS:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An OTC equity security generally is any equity that is not listed or traded on Nasdaq or a national securities exchange. OTCBB securities include national, regional, and foreign equity issues, warrants, units, American Depository Receipts (''ADRs''), and Direct Participation Programs (''DPPs'').

[4] Quotes in DPPs may be updated twice daily: once between 8:30 and 9:30 a.m. ET and again between 12:00 and 12:30 p.m. ET.

(i) An order entered through the ODS must be preferenced to a market maker in the security.

(ii) Principal as well as agency orders may be entered through the ODS.

(iii) All orders entered through the ODS must be priced. Therefore, it would be impermissible to enter an order only with instructions to execute ''at the market'' or ''on the close.''

(iv) An order entered through the ODS must include the security's identifier, price and size (from 100 to 999,900 shares); be designated as buy, sell, or sell short; and have a capacity indicator. All orders must be in round lots; the system will not accept odd lots.

(v) Orders entered into the ODS would be in force for a minimum of three minutes, unless the entering firm specifies another time in force or designates as a day order. The entering firm would be permitted to attempt to cancel an order after ten seconds.

(vi) A market maker receiving an order through the ODS would have three minutes to respond with an ''accept'' or ''reject'' message. Order recipients can respond with partial acceptance, as long as the order is not designated as All-Or-None. If the receiving market maker does not act within three minutes (or other time period specified by the order entry firm), the order would be automatically timed out and a notification of that result sent to the initiating firm.

(vii) The ODS would send a ''pop-up'' message to a market maker's NWII terminal alerting the market maker to the presence of a liability order. The market maker would then be obligated to execute the liability order up to the size of its quoted price, unless the market maker is in the process of executing another limit order at the same price.

(viii) The ODS would prohibit orders from being entered if there is no inside market in the security (*i.e.,* there are at least two market makers with two-sided quotes).

(ix) If an incoming buy (sell) order is priced below (above) the recipient's quoted bid/offer, or for an amount exceeding the recipient's displayed size, the market maker may properly reject it. The rejecting market maker can promptly communicate a counter proposal for possible acceptance by the initiating firm. This scenario illustrates the ability of a market maker to negotiate an execution by exchanging messages via the ODS.

(x) Transmission of an ''accept'' message would automatically create and send a ''locked-in'' trade to ACT for comparison and clearing. Trades confirmed through the ODS would automatically generate a printed confirmation of the execution to both parties.

(xi) ODS users would have access to the full functionality of ACT to enter corrective transactions, including cancel, error, break, no/was, inhibit, and kill (where appropriate under applicable trade reporting rules).

(xii) Participating market makers would have the capacity to scan transactions which they have executed through the ODS during the course of a trading day.

(xiii) The ODS would automatically reject messages involving ineligible market makers or initiating member firms.

As outlined above, the ODS would allow market participants to follow a few easy steps to enter, negotiate, and accept orders. To enter an order the market participant must choose buy, sell, or sell short; enter the share size; enter the security ID; designate a price; indicate whether price and/or size are negotiable; and specify the duration of the order, including (1) leave the order open for a minimum of three minutes, (2) make it a day order, or (3) leave it open until after-hours trading has ended. Market participants can respond to an order in several ways: accept the order, price improve it, decline it, counter the order, accept a portion of the order, or allow the order to expire or time out. When an order is countered, negotiations would begin and the parties would exchange messages until they produce a full or partial execution, they decline the transaction, or the order times out.

After an order is executed, the ODS would automatically confirm it to both parties to the transaction; send the trade report through Nasdaq for public dissemination; and compare, match, and send the locked-in trade to a clearing corporation. All Nasdaq order-entry or market maker subscribers would be eligible to participate in the ODS, provided that they have a clearing arrangement with an approved clearing agent.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq states that trading activity in the OTCBB grew from 41 million shares and less than 7,000 trades per day in 1995 to 323 million shares and 53,000 trades per day in 1999. In the first quarter of 2000, on average, over 1 billion shares were traded and 205,000 trades were reported each day. Nasdaq believes that there are many reasons for this increase in volume, but chief among them is the wealth of OTC information available on the Internet and the growth of online trading systems directly accessible to individual investors. The manual nature of the OTCBB, where all order delivery, communication, and negotiation between two firms regarding an OTCBB trade is done via telephone, was a drawback during these periods of explosive volume. Nasdaq believes that executions were slower and market participants had difficulty keeping abreast of telephone traffic.

Nasdaq states that the singular purpose of the ODS enhancement is to expand the communications facilities available to support the continuous, orderly operation of the OTCBB during periods of heavy trading, such as those experienced periodically during 2000. The ODS would facilitate processing of orders during fast markets, in that it would supplement the telephone capacity of market makers to interact with one another. It would, however, permit NASD members, from a functional standpoint, to continue to conduct business with one another by communicating the same basic elements of information that are needed to negotiate and confirm executions via telephone. The major difference is that electronic messages would substitute for verbal messages.

Nasdaq states that the ODS would also enable NASD members to realize certain efficiencies that are most desirable in periods of heavy trading, but unavailable respecting transactions effected via telephone. For example, consummation of a transaction through the ODS would yield a printed confirmation to both parties to the transaction and would obivate the separate entry of a trade report for an execution in an OTCBB security. Further, because orders executed through the ODS would yield locked-in trades, this feature would help reduce the volume of uncompared trades (and

the attendant allocation of resources needed to resolve them) during periods in which overall market volume surges dramatically. Nasdaq believes that institution of the ODS would supplement both the communications and order processing capabilities of member firms.

The NASD Regulation Market Regulation Department anticipates that the ODS would enable it to surveil more effectively the OTCBB marketplace. Nasdaq is committed to maintaining a high level of regulation in the OTCBB trading environment. In fact, Nasdaq's market surveillance systems and staff would increase the capacity for real-time monitoring of trading on the OCTBB.

Nasdaq states that the OTCBB has made significant strides in making measurable market improvements in the past three years, including: (1) the implementation of the Eligibility Rule, which requires each OTCBB issuer to be fully registered with the SEC (or appropriate banking or insurance regulator) and be current in its filings,[5] (2) the establishment of limited trading halt authority for OTCBB securities,[6] and, (3) the upcoming launch of a Limit Order Protection pilot program, which will prohibit member firms from trading ahead of customer limit orders certain OTCBB securities.[7] Nasdaq believes that providing automated access to the OTCBB market would further Nasdaq's efforts to make the OTCBB a more efficient and orderly marketplace for investors and market participants alike.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Sections 11A and 15A of the Act.[8] Subsections (A) to (D) of Section 11A(a)(1)[9] articulate the broad findings and policy goals which Congress intended to guide the operational enhancement of the nation's securities markets. In this context, Congress underscored the importance of applying new data processing and communications techniques to assure: (1) more efficient and effective market operations; (2) economically efficient execution of securities transactions; (3) broad availability of information with respect to quotations for and transactions in securities; and (4) the optimal execution of investors' orders.[10] The NASD believes that the design and operation features of the ODS enhancement comport fully with these Congressional directives.

Nasdaq believes that the proposal is also supported by subsection (b)(6) of Section 15A of the Act.[11] Among other things, that provision requires that the NASD's rule-making initiatives be designed: (1) to promote just and equitable principles of trade; (2) to foster cooperation and coordination with persons engaged in regulating, clearing settling, processing information with respect to, and facilitating transactions in securities; (3) to perfect the mechanism of a free and open market and a national market system; and (4) to protect investors and the public interest. As described earlier, the ODS would augment the communications and order-handling capacities of market makers in OTCBB securities. The NASD views the ODS as an essential, auxiliary communications system that would enable market makers to conduct business with one another when telephonic communications are undesirable due to unusual conditions. Providing such a back-up capability promotes continuity in market operations in order to service all classes of investors. Nasdaq believes that this result is fully consistent with the above-cited portions of Section 15A(b)(6) of the Act.[12]

B. Self-Regulatory Organization's Statement on Burden of Competition

Nasdaq states that implementation of the ODS would not involve the imposition of any competitive burden. Nasdaq believes that this conclusion is supported by several factors. First, the ODS involves an enhancement of the facilities that support market making in OTCBB securities by member firms. This type of enhancement would not alter the established terms of access respecting vendors' receipt of market information for redistribution to diverse groups of end users. Second, the ODS would not pose a competitive burden upon market makers and other eligible members. By design, the ODS would be an auxiliary medium of communication that eligible firms may employ to conduct business when telephonic communication is not desirable. Accordingly, the ODS has been structured to accommodate conveyance of the same basic elements of information which firms communicate in negotiating and executing transactions via the telephone. Third, the ODS enhancement would not impose more stringent market-making obligations on participating firms. Rather, it would provide an alternative mechanism for market participants to conduct their routine business. Fourth, firms electing to utilize the ODS would need only to have clearing arrangements through a registered clearing agency that uses a continuous net settlement system, a requirement that exists today for trading of OTCBB securities.

Nasdaq believes, therefore, that no competitive burden would result from the Commission's approval of this filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 Nasdaq 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 NASD. All submissions should refer to File No. SR–NASD –2001–28 and should be submitted by May 31, 2001.

[5] *See* NASD Rules 6530 and 6540.

[6] *See* NASD Rule 6545.

[7] *See* NASD Rule 6541 (implementation pending).

[8] 15 U.S.C. 78k–1 and 78o–3

[9] 15 U.S.C. 78k–1(a)(1)(A) to (D).

[10] *See* 15 U.S.C. 78k–1(a)(1)(C).

[11] *See* 15 U.S.C. 78o–3(b)(6).

[12] *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11803 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44245; File No. SR–Phlx–2001–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Exchange Rule 98, Emergency Committee Until July 31, 2001

May 1, 2001.

Pursuant to Sectiuon19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 12, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend the pilot program period for Rule 98, Emergency Committee until July 31, 2001. No changes to the existing rule language are being proposed.

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

On December 23, 1999, the Commission approved amendments to Rule 98, Emergency Committee (the ''Committee''), which updated the composition of the Committee to reflect the current governance structure of the Exchange, on a 120-day pilot basis.[5] The pilot has been extended three times, most recently to April 30, 2001.[6] The pilot program is being extended again to July 31, 2001 as the Exchange considers other changes to the composition of the Committee.

The Exchange originally proposed to amend Rule 98, Emergency Committee, by updating the composition of the Committee to correspond with previous revisions to the Exchange's governance structure,[7] and by deleting a provision authorizing the Committee to take action regarding CENTRAMART, an equity order reporting system which is no longer used on the Exchange Equity Floor.

The Committee was formed in 1989[8] prior to the aforementioned changes to the Exchange's governance structure. The original proposed rule change, approved by the Commission, deleted the word ''President'' from the rule, as the Exchange no longer has a ''President,'' and included the Exchange's On-Floor Vice Chairman[9] as a member of the Committee.

Thus, Rule 98 specifies the composition of the Emergency Committee to include the following individuals: the Chairman of the Board of Governors; the On-Floor vice Chairman of the Board of Governors; and the Chairmen of the Options Committee, the Floor Procedure Committee, and the Foreign Currency Options Committee.

The staff of the Commission has requested that the Exchange file the instant proposed rule change to extend the pilot program through July 31, 2001 so that the Committee will reflect the current governance structure of the Exchange and will be in place to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[10] The extension of the pilot program will also allow the Exchange the necessary time to propose changes to the Committee's structure to meet the Commission's concerns about whether the Committee ensures that all interests of the Exchange (*e.g.,* On-Floor or Off-Floor) are adequately represented by the Committee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6[11] of the Act in general, and with Section 6(b)(5)[12] of the Act in specific, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by updating the composition of the Emergency Committee to reflect the

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Exchange filed the pre-filing notice required by Rule 19b–4(f)(6) by filing a written description of the proposed rule change and the text of the proposed rule change on April 3, 2001.

[5] Securities Exchange Act Release No. 42272 (December 23, 1999), 65 FR 153 (January 3, 2000)(SR–Phlx–99–42). In the approval order, the Commission requested that the Exchange examine the operation of the Committee to ensure that the Committee is not dominated by any one Exchange interest (*e.g.,* On-Floor or Off-Floor interests). The Commission requested that the Exchange report back to the Commission on its views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee.

[6] Securities Exchange Act Release No. 42898 (June 5, 2000), 65 FR 36879 (June 12, 2000)(SR–Phlx–00–41), extending the pilot program until August 21, 2000; Securities Exchange Act Release No. 43169 (August 17, 2000), 65 FR 51888 (August 25, 2000)(SR–Phlx–00–76), extending the pilot program until November 17, 2000. On July 14, 2000, the Exchange filed a proposed rule change to effect the amendments on a permanent basis. SR–Phlx–00–63 (filed July 14, 2000). In SR–Phlx–00–63 the Exchange also enclosed the Exchange's views as to whether the Committee structure ensures that all Exchange interests are fairly represented by the Committee. Because the Exchange is considering changes to the Committee, the Commission expects SR–Phlx–00–63 to be withdrawn. In November, 2000, the pilot program was extended again until April 30, 2001. Securities Exchange Act Release No. 43614 (November 22, 2000), 65 FR 75332 (December 1, 2000).

[7] *See* Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997)(SR–Phlx–97–31).

[8] *See* Securities Exchange Act Release No. 26858 (May 22, 1989), 54 FR 23007 (May 30, 1989) (SR–Phlx–88–36).

[9] *See also* Exchange By-Law, Article IV, Section 4–2.

[10] Previously, the Exchange has described ''extraordinary market or emergency conditions'' as, among other things, a declaration of war, a presidential assassination, an electrical blackout, or events such as the 1987 market break or other highly volatile trading conditions that require intervention for the market's continued efficient operation. Letter dated March 15, 1989, from William W. Uchimoto, General Counsel, Exchange, to Sharon L. Itkin, Esquire, Commission, Division of Market Regulation

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

current governance structure of the Exchange, and by continuing to provide a regular procedure for the Exchange to take necessary and appropriate action to respond to extraordinary market conditions or other emergencies.[13]

B. Self-Regulatory Organization's Statement of 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(4) [15] thereunder because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which the proposed rule change was filed, or such shorter time as the Commission may designate. At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds that it is appropriate to accelerate the effective date of the proposed rule change and to permit the proposed rule change to become immediately effective because the proposal simply extends a previously approved pilot program until July 31, 2001. No changes to Rule 98 are being proposed at this time and the Commission has not received any comments on the pilot program. In addition, the Exchange appropriately filed a pre-filing notice as required by Rule 19b–4(f)(6).[16]

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 Phlx. All submissions should refer to the File No. SR–Phlx–2001–44 and should be submitted by May 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11800 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44259; File No. SR–Phlx–2001–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Eliminating Equity Trading Floor Specialist Fees for the Execution of PACE Orders on the Opening

May 4, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx.[3] The Commission is publishing this notice to solicit comments on proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to eliminate equity trading floor specialist fees for each PACE transaction for orders entered before the opening of trading.[4] Specifically, the PACE specialist charge of $.20 per Phlx specialist trade for PACE executions would be eliminated.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx 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 Phlx 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to alleviate fee burdens on specialists by eliminating specialist fees for PACE trades executed by the specialist on the opening. Presently, PACE orders, including those executed on the opening, are charged a PACE specialist fee of $.20 per trade, in addition to other costs, such as Stock Clearing Corporation of Philadelphia trade processing/clearing fees and Section 31 fees.

Exchange specialists have many responsibilities, including the maintenance of fair and orderly markets. Phlx specialists provide PACE orders specific guarantees enumerated in Phlx

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[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 140.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx originally submitted the proposed rule change on April 2, 2001. On April 18, 2001, the Phlx submitted a new Form 19b–4, which replaces and supersedes the original filing in its entirety. *See* letter from Diana Tenenbaum, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 17, 2001.

[4] PACE is the Philadelphia Stock Exchange's Automated Communication and Execution System. It is the Exchange's order routing, delivery, execution, and reporting system for its equity trading floor. *See* Phlx Rule 229.

Rule 229. The Phlx believes that the specialist's role is particularly important on the opening, where the specialist must determine the opening price while being mindful of single price openings in unlisted trading privileges securities, monitor Intermarket Trading System indications and commitments, and assess and address order imbalances. The Phlx believes that these responsibilities impose unique risks and costs on specialists. For instance, the automatic execution feature of PACE is not engaged until after the opening,[5] which allows the specialist to better control the aforementioned duties, but also imposes unique manual burdens, such as matching against orders on the opening.

Thus, the proposal would eliminate the Phlx transaction fees imposed on orders on the opening that are received through PACE and executed manually. The proposed amendment would enable the specialist to continue to provide prompt execution and participate in opening orders, without the additional burden of a transaction fee. The Exchange believes that this fee reduction should encourage specialists' efforts in attracting more order flow, which in turn should promote a more liquid market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and with Section 6(b)(4),[7] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges, by alleviating a financial burden on specialists. The Exchange notes that other equity fees apply only to certain market participants, and the Exchange has previously waived fees with respect to certain market participants.[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

[5] Telephone call between Edith Hallahan, Deputy General Counsel, Phlx, and Sonia Patton, Staff Attorney, Division, Commission (May 1, 2001).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See* Securities Exchange Act Release No. 43343 (Sep. 26, 2000), 65 FR 59243 (Oct. 4, 2000) (SR–Phlx–00–80), regarding a waiver of all comparison and transaction charges for customers trading equity options.

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

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder.[10] Accordingly, the proposal will take effect upon the filing of the proposed rule change with the Commission on April 18, 2001. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–41 and should be submitted by May 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11802 Filed 5–9–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 11, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION: *Title:* Notice of Award/GrantCooperative Agreement Cost Sharing Proposal.

No's: 1222 and 1224.

Frequency: On Occasion.

Description of Respondents: Participating Colleges and Grants Management Office.

Annual Responses: 477.

Annual Burden: 34,191.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–11797 Filed 5–9–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management

and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503

(SSA) Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Report of Student Beneficiary About to Attain Age 19—0960–0274. The information collected by the Social Security Administration (SSA) on form SSA–1390 is used to determine a student's eligibility for Social Security benefits for those attaining age 19. The affected public is comprised of student beneficiaries about to attain age 19.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 4,167 hours.

2. Certificate of Coverage Request Form—0960–0554. The United States (U.S.) has Social Security agreements with 18 countries. These agreements eliminate double Social Security coverage and taxation where a period of work would be subject to coverage and taxes in both countries. The individual agreements contain rules for determining the country under whose laws the period of work will be covered and to whose system taxes will be paid. The agreements further provide that upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information collected is needed to determine if a period of work is covered by the U.S. system under an agreement and to issue a certificate of coverage. The respondents are workers and employers wishing to establish an exemption from foreign Social Security taxes.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 20,000 hours.

3. Medical Report (General)—0960–0052. The information collected on form SSA–3826–F4 is used by SSA to determine the claimant's physical status prior to making a disability determination and to document the disability claims folder with the medical evidence. The respondents are physicians, hospitals, directors and medical records librarians.

Number of Respondents: 750,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 375,000 hours.

4. Representative Payee Evaluation Report—0960–0069. The information on form SSA–624 is used by SSA to accurately account for the use of Social Security benefits and Supplemental Security Income payments received by representative payees on behalf of an individual. The respondents are individuals and organizations who received form SSA–623 or SSA–6230 and failed to respond, provided unacceptable responses that could not be resolved, or reported a change in custody.

Number of Respondents: 250,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 125,000 hours.

5.Chinese Custom Marriage Statement; Statement Regarding Marriage—0960–0086. The information collected on Forms SSA–1344 and SSA–1345 is used to determine whether the spouse/claimant is (or was) legally married to the numberholder for the purpose of paying Social Security Benefits. The respondents are individuals who were married in a Chinese custom marriage.

	SSA–1344	SSA–1345
Number of Respondents:	10	10
Frequency of Response:	1	1
Average Burden Per Response:	[1] 14	[1] 14
Estimated Annual Burden:	[2] 2.3	[2] 2.3

[1] Minutes.
[2] Hours.

6. State Agency Ticket Assignment Form—0960–NEW.

The information collected on this form will be used by SSA's contracted Program Manager (PM) to perform the task of assigning beneficiaries' tickets and monitoring the use of tickets under the Ticket to Work and Self-Sufficiency Program. The State Vocational Rehabilitation (VR) agency answers the questions and the beneficiary reviews the data and if in agreement will sign the form acknowledging their Ticket assignment. The respondents are State VR agencies.

Number of Respondents: 21.

Frequency of Response: 4,048 annually per respondent.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 4,250 hours.

Please note that the Ticket to Work Program is being implemented in stages. The above represents the initial phase of the program with 13 participating states that includes 21 State VR agencies. As the program continues to be phased in, each initial program year will result in a large number of new tickets for the participating State VRs because existing clients will also be brought into the program.

7. Statement for Determining Continuing Eligibility, Supplemental Security Income Payment—0960–0145—Forms SSA–8202–F6 and SSA–

8202–OCR–SM. SSA uses form SSA–8202–F6 to conduct low-and middle-error-profile (LEP-MEP) telephone or face-to-face redetermination (RZ) interviews with Supplemental Security Income (SSI) recipients and representative payees. The information collected during the interview is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been and are still receiving the correct payment amount. Form SSA–8202–OCR–SM (Optical Character Recognition-Self Mailer) collects information similar to that collected on Form SSA–8202–F6. However it is used exclusively in LEP RZ cases on a 6-year cycle. The respondents are recipients of SSI benefits or their representative payees.

	Respondents	Frequency response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–8202–F6	920,000	1	18	276,000
SSA–8202–OCR–SM	800,000	1	9	120,000
Total Burden				396,000

8. Statement For Determining Continuing Eligibility for Supplemental Security Income Payments—0960–0416. SSA uses form SSA–8203–BK for high-error-profile (HEP) redeterminations. The information is normally completed in field offices by personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The paper form is used only when a systems limitation prevents the interview from being completed on MSSICS. When the paper form is used, a tear-off sheet (Pages 7 and 8 of the form) is given to recipients at the conclusion of a face-to-face interview or is mailed to recipients at the completion of the telephone interview. The tear-off includes information about how, what, when, where, and why SSI recipients report when there is a change in income, resources, or living arrangements. The respondents are recipients of title XVI SSI benefits.

Number of Respondents: 920,000.

Frequency of Response: 1.

Average Burden Per Response: 18 minutes.

Estimated Annual Burden: 276,000 hours.

9. Summary of Evidence—0960–0430. The information on Form SSA–887 is used by State Disability Determination Services (DDS) to provide claimants with a list of medical/vocational reports pertaining to their disability. The form will aid claimants in reviewing the evidence in their folders and will be used by hearing officers in preparing for and conducting hearings. The respondents are State DDSs that make disability determinations.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 12,250 hours.

10. Notice Regarding Substitution of Party Upon Death of Claimant—Reconsideration of Disability Cessation—0960–0351. The Social Security Administration uses the form SSA–770 to obtain information from substitute parties regarding their intention to pursue the appeals process for an individual who has died. The respondents are such parties.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 200 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Internet Direct Deposit Application—0960–NEW. SSA uses Direct Deposit/Electronic Funds Transfer (DD/EFT) enrollment information received from beneficiaries to facilitate DD/EFT of their social security benefits with a financial institution. The respondents are Social Security beneficiaries who use the Internet to enroll in DD/EFT.

Number of Respondents: 3,485.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 581 hours.

2. Request To Have Supplemental Security Income Overpayment Withheld from My Social Security Benefits—0960–0549. Form SSA–730–U2 is used by SSA to confirm that a request has been made by a Social Security beneficiary for SSA to recover his/her SSI overpayment from title II benefits and that the request was made voluntarily by the beneficiary. The respondents are Social Security beneficiaries who received SSI overpayments.

Number of Respondents: 10,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Average Burden: 833 hours.

3. Farm Self-Employment Questionnaire—0960–0061. Section 211(a) of the Social Security Act requires the existence of a trade or business as a prerequisite for determining whether an individual or partnership may have ''net earnings from self-employment.'' Form SSA–7156 elicits the information necessary to determine the existence of an agricultural trade or business and subsequent covered earnings for Social Security entitlement purposes. The respondents are applicants for Social Security benefits whose entitlement depends on whether the worker has covered earnings from self-employment as a farmer.

Number of Respondents: 47,500.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 7,917 hours.

Dated: May 4, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–11753 Filed 5–9–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice 3659]

Culturally Significant Objects Imported for Exhibition Determinations; ''Mies in Berlin''

DEPARTMENT: United States Department of State.

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], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit ''Mies in Berlin,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Museum of Modern Art, in New York, NY, from on or about June 21, 2001, to on or about September 11, 2001, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 2, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–11821 Filed 5–9–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Environmental Impact Statement: Evansville, IN and Henderson, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed I–69 corridor in the Evansville, Indiana and Henderson, Kentucky area.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dirks, Environmental Specialist, Federal Highway Administration, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204. Telephone: (317) 226–7492, Fax: (317) 226–7341, e-mail: robert. dirks@fhwa. dot.gov.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana department of Transportation (INDOT), the Kentucky Transportation Cabinet (KYTC) and the Evansville Urban Transportation Study (EUTS), will prepare an EIS to determine a proposed route for the I–69 Corridor through the Evansville, Indiana-Henderson, Kentucky area, extending south from I–64 in Indiana to the Pennyrile Parkway in Kentucky. The proposed facility is anticipated to provide an interstate-type facility with two lanes in each direction (with the possibility of three lanes in each direction depending on forecasted traffic volumes) separated by a median. The study will build upon the previous Corridor 18 studies (the Feasibility Study, 1995; the Special Issues Study, 1997; and the Special Environmental Study, 2000), which identified a variety of environmental and location factors that must be considered prior to the construction of I–69 as an addition to the Interstate System. The EIS will discuss environmental, social, and economic impacts associated with the develoment of the proposed action.

Up to five (5) possible conceptual alternatives (including one (1) to the east and two (2) to the west of Evansville and Henderson, one (1) incorporating U.S. 41, and one (1) focusing on ITS (Intelligent Transportation Systems) strategies for existing US 41 and I–164 through Evansville and Henderson), as well as a no-build alternative, will be examined. The study will identify and consider potential impacts the project may have on natural, cultural, historic and other environmental resources. Early coordination meetings will be held with federal, state, regional and local resource agencies. An environmental ''footprint'' will be developed at the outset of the study, and will be made available at the initial public information meetings. These early public meetings will be held to solicit input from citizens and local officials prior to the development of detailed alternatives. A formal scoping meeting will be scheduled with the appropriate resource agencies to review the purpose and need and the conceptual alternatives to be considered. A second interagency meeting will be held to review the selection of alternatives to be retained for detailed study. A third interagency review meeting will be held to review the selected action and conceptual mitigation. Utilizing input from these agencies, input received at public meetings, and information obtained from field review, alternatives will be developed along with preliminary cost estimates for each of the alternatives. This information, along with environmental investigations, will be presented at a second series of public information meetings for review and public comment.

Following evaluation of public comments, alternatives will be refined and evaluated, a preferred alternative may be identified, and a Draft EIS will be prepared. Public hearings will then be held in accordance with all State and Federal requirements. Public notice will be given of the time and place of the public hearings. The Draft EIS will be available for public and agency review and comment. To ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA contact at the address provided above.

State contacts	FHWA Division contacts
Indiana	
Steve Cecil, Deputy Commissioner of Planning and Intermodal Transp., Indiana Department of Transportation, 100 North Senate Ave., Room N755, Indianapolis, IN 46204–2249; Phone: 317–232–5535; Fax: 317–232–0238; e-mail: scecil@indot.state.in.us.	John Baxter, Division Administrator, Federal Highway Administration, 575 North Pennsylvania St., Room 254, Indianapolis, Indiana 46204; Phone: 317–226–7475; Fax: 317–226–7341; e-mail: john.baxter@fhwa.dot.gov

State contacts	FHWA Division contacts
Kentucky	
John Carr, Deputy State Highway Engineer, Kentucky Transportation Cabinet, State Office Building, Rm. 1005, 501 High Street, Frankfort, KY 40622; Phone: 502–564–3730; Fax: 502–564–2277; e-mail: jcarr@mail.kytc.state.ky.us.	Jose Sepulveda, Division Administrator, Federal Highway Administration, 330 W. Broadway, Frankfort, KY 40601; Phone: 502–223–6720; Fax: 502–223–6735; e-mail: jose.sepulveda@fhwa.dot.gov

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to the program).

Authority: 23 USC 315; 49 CFR 1.48.

Issued on: May 1, 2001.

Robert Dirks,

Environmental Specialist, FHWA, Indianapolis, Indiana.

[FR Doc. 01–11794 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Wythe County, VA

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement in cooperation with the Virginia Department of Transportation (VDOT) for the I–77/I–81 Improvement Project in Wythe County to address safety and capacity issues.

FOR FURTHER INFORMATION CONTACT: John Simkins, Environmental Protection Specialist, Federal Highway Administration, Post Office Box 10249, Richmond, Virginia 23240–0249, Telephone 804–775–3342.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Virginia Department of Transportation (VDOT), will prepare an environmental impact statement (EIS) for the I–77/I–81 Improvement Project in Wythe County. Interstates 77 and 81 currently share a common corridor for approximately nine miles from immediately east of Fort Chiswell to the Town of Wytheville. The study area's limits begin just west of I–81 exit 70 and extend east for a distance of approximately 15 miles, ending west of the I–81 exit 84. The study window's southern limits begin along I–77, approximately three miles south of the I–77/I–81 interchange. The northern limits are located near Cove Mountain, north of the I–77/I–81 separation in Wytheville.

Recognizing that the National Environmental Policy Act (NEPA) process requires the consideration of a reasonable range of alternatives that will address the purpose and need, the EIS will include a range of alternatives for study consisting of a no-build alternative as well as alternatives consisting of transportation system management strategies, mass transit, improvements to existing roadways, and/or new alignment facilities. These alternatives will be developed, screened, and carried forward for analysis in the draft EIS based on their ability to address the purpose and need that will be developed while avoiding known and sensitive resources.

The scoping process is currently underway. Scoping letters describing the proposed study and soliciting input are being sent to the appropriate Federal, State and local agencies who have expressed or are known to have an interest or legal role in this proposal. Private organizations, citizens, and interest groups also will have an opportunity to provide input into the development of the EIS and identify issues that should be addressed. No formal scoping meeting is planned at this time.

A series of public informational meetings and a public hearing will be held. Notices of public meetings or public hearings will be given through various forums providing the time and place of the meeting along with other relevant information. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are identified and taken into account, comments and input are invited from all interested parties. Comments and questions concerning the proposed action and draft EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

Authority: 23 U.S.C. 315; 49 CFR 1.48

Issued on: May 3, 2001.

John Simkins,

Environmental Protection Specialist.

[FR Doc. 01–11795 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Annual List of Defect and Noncompliance Decisions Affecting Nonconforming Imported Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Annual list of defect and noncompliance decisions affecting nonconforming imported vehicles.

SUMMARY: This document contains a list of vehicles recalled by their manufacturers during Calendar Year 2000 (January 1, 2000 through December 31, 2000) to correct a safety-related defect or a noncompliance with an applicable Federal motor vehicle safety standard (FMVSS). The listed vehicles are those that have been decided by NHTSA to be substantially similar to vehicles imported into the United States that were not originally manufactured to conform to all applicable FMVSS. The registered importers of those nonconforming vehicles are obligated to provide their owners with notification of, and a remedy for, the defects or noncompliances for which the listed vehicles were recalled.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle of the same model year that was originally

manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115. Once NHTSA decides that a nonconforming vehicle is eligible for importation, it may be imported by a person who is registered with the agency pursuant to 49 U.S.C. 30141(c). Before releasing the vehicle for use on public streets, roads, or highways, the registered importer must certify to NHTSA, pursuant to 49 U.S.C. 30146(a), that the vehicle has been brought into conformity with all applicable FMVSS.

If a vehicle originally manufactured for importation into and sale in the United States is decided to contain a defect related to motor vehicle safety, or not to comply with an applicable FMVSS, 49 U.S.C. 30147(a)(1)(A) provides that the same defect or noncompliance is deemed to exist in any nonconforming vehicle that NHTSA has decided to be substantially similar and for which a registered importer has submitted a certificate of conformity to the agency. Under 49 U.S.C. 30147(a)(1)(B), the registered importer is deemed to be the nonconforming vehicle's manufacturer for the purpose of providing notification of, and a remedy for, the defect or noncompliance.

To apprise registered importers of the vehicles for which they must conduct a notification and remedy (i.e., ''recall'') campaign, 49 U.S.C. 30147(a)(2) requires NHTSA to publish in the **Federal Register** notice of any defect or noncompliance decision that is made with respect to substantially similar U.S. certified vehicles. Annex A contains a list of all such decisions that were made during Calendar Year 2000. The list identifies the Recall Number that was assigned to the recall by NHTSA after the agency received the manufacturer's notification of the defect or noncompliance under 49 CFR Part 573. After December 31, 2001, NHTSA will publish a comparable list of all defect and noncompliance decisions affecting nonconforming imported vehicles that are made during the current calendar year.

Authority: 49 U.S.C. 30147(a)(2); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 7, 2001.

Marilynne Jacobs,

Director Office of Vehicle Safety, Compliance.

ANNEX A

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS

Make	Model	Year	Recall No.
AUDI	A6	2000	00V137000
BLUE BIRD	TC2000	1993	00V321000
BMW	323I	2000	00V048000
BMW	540I	2000	00V048000
BMW	K1200RS	1998	00V264000
BMW	K1200RS	1998	00V266000
BMW	M5	2000	00V048000
BMW	X5	2000	00V010000
BMW	X5	2001	00V261000
BMW	X5	2001	00V341000
BUICK	CENTURY	1998	99V356000
BUICK	CENTURY	1999	99V356000
BUICK	CENTURY	2000	00V143000
BUICK	CENTURY	2000	00V160000
BUICK	CENTURY	2000	00V228003
BUICK	CENTURY	2000	00V371000
BUICK	CENTURY	2001	00V228003
BUICK	CENTURY	2001	00V371000
BUICK	LESABRE	2000	00V114000
BUICK	LESABRE	2000	99V355000
BUICK	PARK AVENUE	1997	00V117000
BUICK	PARK AVENUE	1998	00V117000
BUICK	REGAL	1989	00V189000
BUICK	REGAL	1990	00V189000
BUICK	REGAL	1991	00V189000
BUICK	REGAL	1995	00V171000
BUICK	REGAL	1998	99V356000
BUICK	REGAL	1999	99V356000
BUICK	REGAL	2000	00V143000
BUICK	REGAL	2000	00V160000
BUICK	REGAL	2000	00V228003
BUICK	REGAL	2000	00V371000
BUICK	RIVIERA	1995	00V057000
CADILLAC	DEVILLE	2000	00V021000
CADILLAC	DEVILLE	2000	00V114000
CADILLAC	ESCALADE	1999	00V122000
CADILLAC	ESCALADE	1999	00V153000
CADILLAC	ESCALADE	2000	00V153000
CADILLAC	SEVILLE	2000	00V114000
CHEVROLET	BLAZER	1998	00V202000
CHEVROLET	BLAZER	2000	00V228003
CHEVROLET	BLAZER	2001	00V228003
CHEVROLET	CAVALIER	1998	00V053000
CHEVROLET	CAVALIER	2000	00V201000
CHEVROLET	CORVETTE	1997	00V111000
CHEVROLET	CORVETTE	1998	00V111000
CHEVROLET	CORVETTE	1999	00V111000
CHEVROLET	CORVETTE	2000	00V111000

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
CHEVROLET	EXPRESS	1999	00V085000
CHEVROLET	EXPRESS	2000	00V085000
CHEVROLET	IMPALA	2000	00V228003
CHEVROLET	IMPALA	2000	00V371000
CHEVROLET	IMPALA	2001	00V228003
CHEVROLET	IMPALA	2001	00V244000
CHEVROLET	IMPALA	2001	00V371000
CHEVROLET	LUMINA	1990	00V189000
CHEVROLET	LUMINA	1991	00V189000
CHEVROLET	MONTE CARLO	2000	00V228003
CHEVROLET	MONTE CARLO	2001	00V228003
CHEVROLET	MONTE CARLO	2001	00V244000
CHEVROLET	S10	1997	00V069000
CHEVROLET	S10	1997	00V069200
CHEVROLET	S10	1997	00V159000
CHEVROLET	S10	1998	00V159000
CHEVROLET	S10	1998	00V202000
CHEVROLET	S10	2000	00V228003
CHEVROLET	S10	2000	00V258001
CHEVROLET	S10	2001	00V228003
CHEVROLET	SILVERADO	1999	00X001000
CHEVROLET	SILVERADO	2000	00V055000
CHEVROLET	SILVERADO	2000	00X001000
CHEVROLET	SUBURBAN	1999	00V122000
CHEVROLET	SUBURBAN	2000	00V222000
CHEVROLET	SUBURBAN	2000	00V343000
CHEVROLET	SUBURBAN	2001	00V343000
CHEVROLET	TAHOE	1999	00V122000
CHEVROLET	TAHOE	2000	00V343000
CHEVROLET	TAHOE	2001	00V343000
CHEVROLET	VENTURE	2000	00V228003
CHEVROLET	VENTURE	2001	00V228003
CHRYSLER	300M	1999	00V034000
CHRYSLER	300M	2000	00V033000
CHRYSLER	300M	2000	00V034000
CHRYSLER	300M	2000	00V366000
CHRYSLER	300M	2001	00V366000
CHRYSLER	CIRRUS	2000	00V196000
CHRYSLER	CIRRUS	2000	00V366000
CHRYSLER	CONCORDE	1999	00V034000
CHRYSLER	CONCORDE	2000	00V180000
CHRYSLER	CONCORDE	2000	00V366000
CHRYSLER	LHS	1999	00V034000
CHRYSLER	LHS	2000	00V033000
CHRYSLER	LHS	2000	00V034000
CHRYSLER	LHS	2000	00V366000
CHRYSLER	PT CRUISER	2001	00V366000
CHRYSLER	SEBRING	2001	00V299002
CHRYSLER	SEBRING	2001	00V306000
CHRYSLER	SEBRING	2001	00V320002
CHRYSLER	SEBRING	2001	00V366000
DODGE	CARAVAN	1993	00V305000
DODGE	CARAVAN	1994	00V305000
DODGE	DAKOTA	1991	00V106000
DODGE	DAKOTA	1992	00V106000
DODGE	DAKOTA	1997	00V193000
DODGE	DAKOTA	1997	00V198000
DODGE	DAKOTA	1997	00V199000
DODGE	DAKOTA	1998	00V193000
DODGE	DAKOTA	1998	00V198000
DODGE	DAKOTA	1999	00V193000
DODGE	DAKOTA	1999	00V198000
DODGE	DAKOTA	2000	00V193000
DODGE	DAKOTA	2000	00V197000
DODGE	DAKOTA	2000	00V198000
DODGE	DAKOTA	2001	00V366000
DODGE	DURANGO	2001	00V366000
DODGE	GRAND CARAVAN	1993	00V305000
DODGE	GRAND CARAVAN	1994	00V305000
DODGE	INTREPID	1999	00V034000
DODGE	INTREPID	2000	00V033000
DODGE	INTREPID	2000	00V034000

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
DODGE	INTREPID	2000	00V180000
DODGE	INTREPID	2000	00V366000
DODGE	INTREPID	2001	00V366000
DODGE	NEON	2000	00V194000
DODGE	NEON	2000	00V366000
DODGE	NEON	2001	00V366000
DODGE	NEON	2001	00V415000
DODGE	RAM	1994	00V135000
DODGE	RAM	1995	00V135000
DODGE	RAM	1996	00V135000
DODGE	RAM	1998	00V107000
DODGE	RAM	1999	00V107000
DODGE	RAM	2000	00V007000
DODGE	RAM	2000	00V107000
DODGE	RAM	2001	00V307000
DODGE	RAM	2001	00V366000
DODGE	STRATUS	2000	00V196000
DODGE	STRATUS	2000	00V366000
DODGE	VIPER	2000	00V366000
DODGE	VIPER	2001	00V366000
FERRARI	360 MODENA	1999	00V078000
FERRARI	360 MODENA	1999	00V098000
FERRARI	360 MODENA	1999	00V099000
FERRARI	360 MODENA	1999	00V340000
FERRARI	360 MODENA	2000	00V340000
FERRARI	360 MODENA F1	1999	00V098000
FERRARI	360 MODENA F1	1999	00V099000
FERRARI	360 MODENA F1	1999	00V340000
FERRARI	360 MODENA F1	2000	00V340000
FORD	CONTOUR	1996	00V075000
FORD	CONTOUR	1997	00V075000
FORD	CONTOUR	1998	00V075000
FORD	CONTOUR	1998	00V350000
FORD	CONTOUR	1999	00V075001
FORD	CONTOUR	1999	00V350000
FORD	CROWN VICTORIA	1996	00V157001
FORD	CROWN VICTORIA	1996	00V157002
FORD	CROWN VICTORIA	1997	00V157001
FORD	CROWN VICTORIA	1997	00V157002
FORD	CROWN VICTORIA	1998	00V157001
FORD	CROWN VICTORIA	1998	00V157002
FORD	CROWN VICTORIA	1998	00V200000
FORD	CROWN VICTORIA	1999	00V157001
FORD	CROWN VICTORIA	1999	00V157002
FORD	CROWN VICTORIA	1999	00V200000
FORD	CROWN VICTORIA	2000	00V157001
FORD	CROWN VICTORIA	2000	00V157002
FORD	CROWN VICTORIA	2000	00V200000
FORD	CROWN VICTORIA	2001	00V270000
FORD	CROWN VICTORIA	2001	00V412000
FORD	E350	1999	00V115000
FORD	E350	2000	00V115000
FORD	ECONOLINE	1999	00V115000
FORD	ECONOLINE	2000	00V115000
FORD	ESCAPE	2001	00V210001
FORD	ESCAPE	2001	00V223001
FORD	ESCAPE	2001	00V260001
FORD	ESCAPE	2001	00V277001
FORD	ESCAPE	2001	00V387002
FORD	ESCORT	2000	00V228001
FORD	EXPEDITION	1997	00V073000
FORD	EXPEDITION	1997	00V168000
FORD	EXPEDITION	1998	00V073000
FORD	EXPEDITION	1998	00V168000
FORD	EXPEDITION	1999	00V073000
FORD	EXPEDITION	2000	00V073000
FORD	EXPLORER	1995	00V402000
FORD	EXPLORER	1996	00V402000
FORD	EXPLORER	1997	00V168000
FORD	EXPLORER	1997	00V402000
FORD	EXPLORER	1998	00V168000
FORD	EXPLORER	1999	00V072000

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
FORD	EXPLORER	2000	00V072000
FORD	EXPLORER	2000	00V179000
FORD	EXPLORER	2000	00V228001
FORD	F150	1997	00V168000
FORD	F150	1997	00V231000
FORD	F150	1998	00V168000
FORD	F150	2000	00V228001
FORD	F150	2001	00V348000
FORD	F250	1997	00V231000
FORD	F250	2000	00V228001
FORD	FOCUS	2000	00V218000
FORD	FOCUS	2000	00V302000
FORD	FOCUS	2000	00V303000
FORD	FOCUS	2000	00V411000
FORD	MUSTANG	1994	00V349000
FORD	MUSTANG	1995	00V349000
FORD	MUSTANG	1996	00V349000
FORD	MUSTANG	1997	00V349000
FORD	MUSTANG	1998	00V349000
FORD	MUSTANG	1999	00V349000
FORD	MUSTANG	2000	00V349000
FORD	MUSTANG	2001	00V349000
FORD	MUSTANG GT	2000	00V355000
FORD	NAVIGATOR	1998	00V168000
FORD	RANGER	2000	00V228001
FORD	TAURUS	2000	00V242000
FORD	TAURUS	2001	00V240000
FORD	WINDSTAR	1996	00V168000
FORD	WINDSTAR	1997	00V168000
FORD	WINDSTAR	1998	00V168000
FORD	WINDSTAR	2000	00V020000
FORD	WINDSTAR	2000	00V164000
FORD	WINDSTAR	2000	00V228001
FORD	WINDSTAR	2001	00V270000
FORD	WINDSTAR	2001	00V412000
FREIGHTLINER	ARGOSY	2000	00V081000
FREIGHTLINER	ARGOSY	2000	00V082000
FREIGHTLINER	ARGOSY	2000	00V232002
FREIGHTLINER	CENTURY	1997	00V232002
FREIGHTLINER	CENTURY	2000	00V081000
FREIGHTLINER	CENTURY	2000	00V131004
FREIGHTLINER	CENTURY	2000	00V232002
FREIGHTLINER	STERLING	1999	00V232002
GMC	DENALI	1999	00V122000
GMC	JIMMY	2000	00V228003
GMC	SAVANA	1999	00V085000
GMC	SAVANA	2000	00V085000
GMC	SIERRA	1999	00X001000
GMC	SIERRA	2000	00V055000
GMC	SIERRA	2000	00X001000
GMC	SONOMA	1998	00V220000
GMC	SONOMA	2000	00V258001
GMC	SUBURBAN	1999	00V122000
GMC	SUBURBAN	2000	00V222000
GMC	YUKON	1999	00V122000
GMC	YUKON	2000	00V343000
GMC	YUKON	2001	00V343000
GMC	YUKON XL	2000	00V343000
GMC	YUKON XL	2001	00V343000
HONDA	ACCORD	2000	00V184000
HONDA	CBR929RR	2000	00V257000
HONDA	ODYSSEY	1999	00V119000
HONDA	ODYSSEY	1999	00V183000
HONDA	ODYSSEY	2000	00V119000
HONDA	ODYSSEY	2000	00V183000
HONDA	S2000	2000	00V016000
HONDA	S2000	2000	00V316000
HYUNDAI	ELANTRA	2000	00V259001
HYUNDAI	ELANTRA	2000	00V259002
HYUNDAI	TIBURON	1997	00V095002
INFINITI	QX4	2001	00V410000
INTERNATIONAL	2000	1999	00V176000

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
INTERNATIONAL	2000	1999	00V232001
INTERNATIONAL	2000	1999	00V246105
INTERNATIONAL	2000	1999	00V246205
INTERNATIONAL	9200	1999	00V149000
INTERNATIONAL	9300	1998	00V149000
INTERNATIONAL	9300	1999	00V149000
INTERNATIONAL	9400	2000	00V149000
INTERNATIONAL	9900	2000	00V149000
JAGUAR	S–TYPE	2000	00V228004
JAGUAR	S–TYPE	2000	00V359002
JEEP	CHEROKEE	1996	00V136000
JEEP	CHEROKEE	1997	00V105000
JEEP	CHEROKEE	1997	00V136000
JEEP	CHEROKEE	1998	00V105000
JEEP	CHEROKEE	1998	00V136000
JEEP	CHEROKEE	1999	00V105000
JEEP	CHEROKEE	1999	00V136000
JEEP	CHEROKEE	2001	00V366000
JEEP	GRAND CHEROKEE	1996	00V136000
JEEP	GRAND CHEROKEE	1997	00V136000
JEEP	GRAND CHEROKEE	1998	00V136000
JEEP	GRAND CHEROKEE	1999	00V034000
JEEP	GRAND CHEROKEE	2000	00V034000
JEEP	GRAND CHEROKEE	2000	00V195000
JEEP	GRAND CHEROKEE	2001	00V366000
JEEP	WRANGLER	2001	00V366000
KAWASAKI	NINJA	2000	00V365000
KAWASAKI	NINJA	2000	00V384000
LAND ROVER	RANGE ROVER	1999	00V142001
LINCOLN	LS	2000	00V359001
LINCOLN	LS	2001	00V359001
LINCOLN	NAVIGATOR	1997	00V073000
LINCOLN	NAVIGATOR	1998	00V073000
LINCOLN	NAVIGATOR	1999	00V073000
LINCOLN	NAVIGATOR	2000	00V073000
LINCOLN	TOWN CAR	1996	00V157001
LINCOLN	TOWN CAR	1996	00V157002
LINCOLN	TOWN CAR	1997	00V157001
LINCOLN	TOWN CAR	1997	00V157002
LINCOLN	TOWN CAR	1998	00V157001
LINCOLN	TOWN CAR	1998	00V157002
LINCOLN	TOWN CAR	1998	00V200000
LINCOLN	TOWN CAR	1999	00V157001
LINCOLN	TOWN CAR	1999	00V157002
LINCOLN	TOWN CAR	1999	00V200000
LINCOLN	TOWN CAR	2000	00V157001
LINCOLN	TOWN CAR	2000	00V157002
LINCOLN	TOWN CAR	2000	00V200000
LINCOLN	TOWN CAR	2000	00V228001
LINCOLN	TOWN CAR	2000	00V368000
MACK	CH	1990	00V019003
MACK	CH	1993	00V019003
MACK	MR	1999	00V230003
MAZDA	626	1994	99V358000
MAZDA	626	1998	00V134000
MAZDA	MIATA	1995	00V004000
MAZDA	MIATA	1999	00V032000
MAZDA	MPV	2000	00V113001
MAZDA	MX6	1994	99V358000
MAZDA	PROTEGE	1995	00V118000
MAZDA	PROTEGE	1999	00V301000
MAZDA	TRIBUTE	2001	00V210002
MAZDA	TRIBUTE	2001	00V223002
MAZDA	TRIBUTE	2001	00V260002
MAZDA	TRIBUTE	2001	00V277002
MAZDA	TRIBUTE	2001	00V387001
MERCURY	COUGAR	1999	00V075001
MERCURY	COUGAR	2000	00V075001
MERCURY	GRAND MARQUIS	1996	00V157001
MERCURY	GRAND MARQUIS	1996	00V157002
MERCURY	GRAND MARQUIS	1997	00V157001
MERCURY	GRAND MARQUIS	1997	00V157002

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
MERCURY	GRAND MARQUIS	1998	00V157001
MERCURY	GRAND MARQUIS	1998	00V157002
MERCURY	GRAND MARQUIS	1998	00V200000
MERCURY	GRAND MARQUIS	1999	00V157001
MERCURY	GRAND MARQUIS	1999	00V157002
MERCURY	GRAND MARQUIS	1999	00V200000
MERCURY	GRAND MARQUIS	2000	00V157001
MERCURY	GRAND MARQUIS	2000	00V157002
MERCURY	GRAND MARQUIS	2000	00V200000
MERCURY	MYSTIQUE	1996	00V075000
MERCURY	MYSTIQUE	1997	00V075000
MERCURY	MYSTIQUE	1998	00V075000
MERCURY	VILLAGER	1999	00V292001
MITSUBISHI	MONTERO	1992	00V311001
NAVISTAR	2674	1999	00V022000
NISSAN	FRONTIER	2000	00V288000
NISSAN	QUEST	1999	00V292002
NISSAN	SENTRA	1996	00V063000
NISSAN	XTERRA	2000	00V288000
OLDSMOBILE	ALERO	1999	00V140000
OLDSMOBILE	ALERO	2000	00V140000
OLDSMOBILE	AURORA	1995	00V057000
OLDSMOBILE	AURORA	2001	00V114000
OLDSMOBILE	CUTLASS SUPREME	1995	00V171000
OLDSMOBILE	CUTLASS SUPREME	1996	00V171000
OLDSMOBILE	INTRIGUE	1998	00V044000
OLDSMOBILE	INTRIGUE	1999	00V044000
OLDSMOBILE	INTRIGUE	2000	00V114000
OLDSMOBILE	INTRIGUE	2000	00V228003
OLDSMOBILE	SILHOUETTE	2000	00V228003
OLDSMOBILE	SILHOUETTE	2001	00V228003
PETERBILT	320	1999	00V027000
PLYMOUTH	GRAND VOYAGER	1993	00V305000
PLYMOUTH	GRAND VOYAGER	1994	00V305000
PLYMOUTH	PROWLER	2000	00V366000
PLYMOUTH	VOYAGER	1993	00V305000
PLYMOUTH	VOYAGER	1994	00V305000
PONTIAC	BONNEVILLE	2000	00V114000
PONTIAC	GRAND AM	1999	00V140000
PONTIAC	GRAND AM	2000	00V116000
PONTIAC	GRAND AM	2000	00V140000
PONTIAC	GRAND PRIX	1989	00V189000
PONTIAC	GRAND PRIX	1991	00V189000
PONTIAC	GRAND PRIX	2000	00V228003
PONTIAC	GRAND PRIX	2001	00V228003
PONTIAC	MONTANA	2000	00V228003
PONTIAC	MONTANA	2001	00V228003
PORSCHE	911	1999	00V109000
PORSCHE	911	2000	00V109000
PORSCHE	911 CARRERA	1999	00V109000
PREVOST	H3–40	1992	00V389000
PREVOST	H3–41	1997	00V389000
PREVOST	H3–41	1998	00V389000
PREVOST	H3–45	1997	00V389000
PREVOST	H3–45	1998	00V389000
PREVOST	H3–45	1999	00V133000
PREVOST	H3–45	1999	00V389000
PREVOST	H3–45	1999	00V407001
PREVOST	H3–45	2000	00V133000
PREVOST	H3–45	2000	00V342000
PREVOST	H3–45	2000	00V389000
SUZUKI	SIDEKICK	1997	00V008000
TOYOTA	AVALON	2000	00V154000
TOYOTA	CAMRY	2000	00V154000
TOYOTA	CAMRY	2000	00V252000
TOYOTA	COROLLA	2000	00V252000
TOYOTA	ECHO	2000	00V252000
TOYOTA	ECHO	2000	00V256000
TOYOTA	SOLARA	2000	00V154000
TOYOTA	TACOMA	2000	00V252000
TOYOTA	TUNDRA	2000	00V103000
VOLKSWAGEN	EUROVAN	1993	00V039000

CALENDAR YEAR 2000 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Year	Recall No.
VOLKSWAGEN	GOLF	2000	00V280000
VOLKSWAGEN	GOLF	2001	00V280000
VOLVO	ACL	1997	00V002002
VOLVO	S80	1999	00V238000
VOLVO	S80	2000	00V238000
VOLVO	V70	2000	00V239000
VOLVO	VN	1999	00V246106
VOLVO	WCL	1989	00V019001
VOLVO	WIA	1993	00V019001

[FR Doc. 01–11811 Filed 5–9–01; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9620]

RIN 2127–AH98

Federal Motor Vehicle Safety Standards; Head Restraints; Review: Effectiveness of Head Restraints in Light Trucks; Evaluation Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a Technical Report reviewing and evaluating its existing Safety Standard 202, Head Restraints. The report's title is The Effectiveness of Head Restraints in Light Trucks.

DATES: Comments must be received no later than September 7, 2001.

ADDRESSES: *Report:* You may obtain a copy of the report free of charge by sending a self-addressed mailing label to Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. A summary of the report is available on the Internet for viewing on line at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/809247.html.* The full report is available on the Internet in PDF format at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/pdf/809247.pdf.*

Comments: All comments should refer to the Docket number of this notice (NHTSA–2001–9620). You may submit your comments in writing to: U. S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324 and visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, NPP–22, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–2560. FAX: 202–366–2559. E-mail: *ckahane@nhtsa.dot.gov*.

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: Visit the NHTSA web site at *http://www.nhtsa.dot.gov* and click ''Regulations & Standards'' underneath ''Car Safety'' on the home page; then click ''Regulatory Evaluation'' on the ''Regulations & Standards'' page.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard 202 has required head restraints in front outboard positions for all cars manufactured January 1, 1969 and later, for sale in the United States. The National Highway Traffic Safety Administration extended the standard to include light trucks (pickup trucks, vans, and sport utility vehicles with Gross Vehicle Weight Rating less than 10,000 pounds) as of September 1, 1991.

NHTSA's 1982 evaluation of head restraints in passenger cars estimated a 13 percent overall reduction in injuries to drivers in rear impacts. The current evaluation, based on data from eight states (Florida, Indiana, Maryland, Missouri, North Carolina, Pennsylvania, Texas, and Utah) estimates that head restraints reduced overall injury risk in light trucks in rear impacts by a statistically significant 6 percent.

How Can I Influence NHTSA's Thinking on This Evaluation?

NHTSA welcomes public review of the technical report and invites reviewers to submit comments about the data and the statistical methods used in the analyses. NHTSA will submit to the Docket a response to the comments and, if appropriate, additional analyses that supplement or revise the technical report.

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 (NHTSA–2001–9318) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please send two paper copies of your comments to Docket Management or submit them electronically. The mailing address is U. S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. If you submit your comments electronically, log onto the Dockets Management System website at *http://dms.dot.gov* and click on ''Help & Information'' or ''Help/Info'' to obtain instructions.

We also request, but do not require you to send a copy to Marie Walz, Evaluation Division, NPP–22, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (alternatively, FAX to 202–366–5377 or e-mail to *tmorgan@nhtsa.dot.gov).* She can check if your comments have been received at the Docket and she can expedite their review by NHTSA.

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, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NCC–01, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR Part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit them electronically.

Will The Agency Consider Late Comments?

In our response, 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.

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.

How Can I Read The Comments Submitted By Other People?

You may read the comments by visiting Docket Management in person at Room PL–401, 400 Seventh Street, SW., Washington, DC from 10 a.m. to 5 p.m., Monday through Friday.

You may also see the comments on the Internet by taking 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 Notice (6545). 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 also download the comments.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 01–11748 Filed 5–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34036]

The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to The Burlington Northern and Santa Fe Railway Company (BNSF) over UP's rail line on the Black Butte and Valley Subdivisions between Klamath Falls, OR, in the vicinity of UP's milepost 428.7 and Binney Junction (Marysville), CA, in the vicinity of UP's milepost 141.9, a distance of 285 miles. BNSF will operate its own trains with its own crews over UP's line under the trackage rights agreement.[1]

The transaction was scheduled to be consummated on or shortly after May 1, 2001.

The purpose of the trackage rights is to allow BNSF to bridge its train service while BNSF's main line is out of service for maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34036, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Yolanda Grimes Brown, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 2, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–11681 Filed 5–9–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On April 24, 2001, BNSF and UP filed a petition for exemption in STB Finance Docket No. 34036 (Sub-No. 1), *The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company,* wherein BNSF and UP request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on August 8, 2001. That petition will be addressed by the Board in a separate decision.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2001.

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, 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 11, 2001 to be assured of consideration.

Departmental Offices/Office of Financial Institutions Policy

OMB Number: 1505–0178.

Form Number: None.

Type of Review: Extension.

Title: Community Adjustment and Investment Program Grant Agreement.

Description: The Department of the Treasury (Treasury), as Chair of the inter-agency committee established by Executive Order No. 12916, dated May 13, 1994, is sponsoring the North American Development Bank's (NADBank) collection of financial and project performance information from NADBank grantees. Respondents will be State and Local Governments,

Institutions of Higher Education, and Non-Profit Organizations. NADBank disburses grants using monies transferred from the Treasury. The information collected will be used to verify grantee compliance with the terms of the Grant Agreement entered into between NADBank and each grantee.

Respondents: Not-for-profit institutions, State, Local or Tribal.

Estimated Number of Respondents/ Recordkeepers: 18.

Estimated Burden Hours Per Respondent/Recordkeeper: 126 hours.

Frequency of Response: On occasion, Quarterly, Annually.

Estimated Total Reporting/ Recordkeeping Burden: 414 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–11742 Filed 5–9–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2001.

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 11, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0134.

Form Number: IRS Form 1128.

Type of Review: Extension.

Title: Application to Adopt, Change, or Retain a Tax Year.

Description: Form 1128 is needed in order to process taxpayers' requests to change their tax year. All information requested is used to determine whether the application should be approved. Respondents are taxable and nontaxable entities including individuals, partnerships, corporations, estates, tax-exempt organizations and cooperatives.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/ Recordkeepers: 11,800.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing, copying, assembling and sending the forms to the IRS
Form 1128, Parts I and II	8 hr., 36 min	6 hr., 34 min	6 hr., 59 min.
Form 1128, Parts I and III	20 hr., 48 min	5 hr., 25 min	7 hr., 12 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 361,720 hours.

OMB Number: 1545–0200.

Form Number: IRS Form 5307.

Type of Review: Extension.

Title: Application for Determination for Adopters of Master or Prototype, Regional Prototype or Volume Submitter Plans.

Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS National Office or regional prototype plan approved by the IRS District Director to obtain a ruling that the plan adopted is qualified under Internal Revenue Code (IRC) sections 401(a) and 501(a). It may not be used to request a letter for multiple employer plan.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 39,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 15 min.

Learning about the law or the form—4 hr., 9 min.

Preparing the form—8 hr., 9 min.

Copying, assembling, and sending the form to the IRS—1 hr., 4 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 726,570 hours.

OMB Number: 1545–0704.

Form Number: IRS Form 5471 and Related Schedules.

Type of Review: Extension.

Title: Information Return of U.S. Persons with Respect to Certain Foreign Corporations.

Description: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to satisfy the reporting requirements of sections 6035, 6038 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 43,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/schedule	Recordkeeping	Learning about the law or the form	Preparing, copying, assembling and sending the form to the IRS
5471	82 hr., 45 min	15 hr., 50 min	23 hr., 53 min.
Schedule J (5471)	3 hr., 49 min	1 hr., 29 min	1 hr., 37 min.
Schedule M (5471)	26 hr., 33 min	6 min	32 min.

Form/schedule	Recordkeeping	Learning about the law or the form	Preparing, copying, assembling and sending the form to the IRS
Schedule N (5471)	8 hr., 22 min	2 hr., 28 min	2 hr., 43 min.
Schedule O (5471)	10 hr., 45 min	24 min	35 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 6,665,205 hours.
OMB Number: 1545–0954.
Form Number: IRS Form 1120–ND.
Type of Review: Extension.
Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.
Description: A nuclear utility files Form 1120–ND to report the income and taxes of a fund set up by the public utility to provide cash for dismantling of the nuclear power plant. The IRS uses Form 1120–ND to determine if the fund income taxes are correctly computed and if a person related to the fund or the nuclear utility must pay taxes on self-dealing.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 100.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—23 hr., 12 min.
Learning about the law or the form—3 hr., 7 min.
Preparing the form—5 hr., 30 min.
Copying, assembling, and sending the form to the IRS—32 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 3,235 hours.
OMB Number: 1545–1038.
Form Number: IRS Form 8703.
Type of Review: Extension.
Title: Annual Certification of a Residential Rental Project.
Description: Operators of qualified residential projects will use to certify annually that their projects meet the requirements of Internal Revenue Code (IRC) section 142(d). Operators are required to file this certification under section 142(d)(7).
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 6,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hr., 49 min.
Learning about the law or the form—1 hr., 17 min.
Preparing and sending the form to the IRS—1 hr., 24 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 39,180 hours.
OMB Number: 1545–1189.
Form Number: IRS Form 8819.
Type of Review: Extension.
Title: Dollar Election Under Section 985.
Description: Form 8819 is filed by U.S. and foreign businesses to elect the U.S. dollar as their functional currency or as the functional currency of their controlled entities. The IRS uses Form 8819 to determine if the election is properly made.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hr., 52 min.
Learning about the law or the form—1 hr., 17 min.
Preparing and sending the form to the IRS—1 hr., 23 min.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 8,340 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 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. 01–11822 Filed 5–9–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 01–09]

Preemption Opinion

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's opinion of whether Federal law would preempt certain provisions of Ohio law that limit the ability of national banks to engage in the business of leasing automobiles. The OCC has determined that the state law provisions, as applied, would be preempted under Federal law.

FOR FURTHER INFORMATION CONTACT: MaryAnn Nash, Senior Attorney, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION: The request for a preemption opinion was submitted by two national banks that engage in the business of motor vehicle leasing in Ohio (collectively, the Requester). As part of that business, the Requester disposes of vehicles that come off lease at the end of the lease term or as a result of early termination or the lessor's default. The Requester seeks to sell these vehicles directly to the public in order to obtain the highest price.

On November 12, 1993, the Registrar of the Ohio Bureau of Motor Vehicles (OBMV) issued a memorandum concluding that section 4517 of the Ohio Revised Code [1] prohibits the public sale of reclaimed leased vehicles. The memorandum interpreted Ohio law to permit direct sales to the public in the case of repossessed vehicles, but then concluded that vehicles reclaimed from a lessor for non-payment were not considered repossessed vehicles. As a result of this interpretation, reclaimed leased vehicles can only be sold at wholesale to persons licensed under section 4517 as ''dealers.''

The Requester has asked for the OCC's opinion on whether the National Bank Act would preempt section 4517 as interpreted by the OBMV. The National Bank Act authorizes national banks to engage in leasing activities consistent with the provisions of 12 CFR 23.[2] The Requester asserts that this authority includes the authority to dispose of reclaimed or off-lease vehicles in the manner that is economically most beneficial. The Requester further asserts that the OBMV's construction of Ohio

[1] Ohio Rev. Code Ann. § 4517.
[2] 12 U.S.C. 24 (Seventh) and 12 U.S.C. 24 (Tenth).

law impairs its ability to exercise its Federally authorized power.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 generally requires the OCC to publish notice in the **Federal Register** requests for preemption opinions in one of the four specified areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches.[3] Section 114 also requires the OCC to publish any final opinion letter in which the OCC concludes that federal law preempts a state law in one of these four areas. Without expressly determining whether section 114 applied to this request, the OCC published a Notice of Request for Preemption Determination dated October 16, 2000. The OCC is publishing its response to the request as an appendix to this notice.

As is explained in greater detail in the response, the OCC agrees that national banks, as part of their authority to engage in the business of leasing automobiles under 12 U.S.C. 24 (Seventh) and 12 U.S.C. 24 (Tenth) may sell reclaimed or off-lease vehicles in the manner that is most economically beneficial. The OCC further agrees that the Ohio law, as interpreted by the OBMV, would be preempted, because it would frustrate the ability of national banks to operate their leasing businesses in an economically efficient manner consistent with safe and sound banking principles.

Dated: May 2, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

Appendix

May 3, 2001.

Thomas A. Plant, Senior Vice President, Assistant General Counsel, National City Bank, 1900 East Ninth Street, Cleveland, Ohio 44114–3484.

Re: Request for Preemption Determination

Dear Mr. Plant:

This responds to your letter dated September 14, 2000, filed on behalf of National City Bank, Cleveland, Ohio and National City Bank of Indiana, Indianapolis, Indiana (the Banks). The Banks are wholly-owned subsidiaries of National City Corporation, a financial holding company headquartered in Cleveland, Ohio. In that letter, you request our opinion on whether Federal law would preempt certain provisions of Ohio law that limit the manner in which reclaimed leased vehicles may be sold. For the reasons discussed below, it is our opinion that Federal law would preempt those provisions.

[3] 12 U.S.C. 43.

Background

The Banks are engaged in the business of leasing automobiles. As part of the leasing business, the Banks dispose of vehicles that come off lease at the end of the lease term or as a result of early termination or the lessor's default. The Banks want to dispose of these vehicles in the manner they believe will result in the highest sales price in order to avoid or limit the losses taken on returned vehicles. The Banks assert that selling reclaimed automobiles directly to the public at auction typically yields the best price.[4]

On November 12, 1993, the Ohio Bureau of Motor Vehicles (the OBMV) issued a memorandum that effectively prohibited the public sale of reclaimed leased vehicles. The OBMV interpreted Ohio law to permit direct sales to the public only in the case of repossessed vehicles.[5] The memorandum specifically states that leased vehicles reclaimed from the lessor for non-payment are not considered repossessed vehicles. Since the issuance of that memorandum, the Banks have been required to sell their reclaimed or off-lease vehicles only at wholesale auctions to dealers licensed under Ohio law.

The Banks assert that the OBMV's construction of the Ohio law to prohibit public sales of reclaimed lease vehicles impairs their ability to exercise their leasing authority. The Banks have asked the OCC for its opinion on whether the National Bank Act preempts chapter 4517 of the Ohio Revised Code as interpreted by the OBMV.

On October 25, 2000, the OCC published a notice of your request in the **Federal Register** (Notice),[6] inviting interested parties to comment on whether federal law preempts the Ohio law. The OCC received seven comments in response to the Notice. Six commenters opined that Federal law preempts the type of state law in question. One commenter asserted that it does not. Each of the commenters who thought that federal law preempts the Ohio law cited the authority of national banks under 12 U.S.C. 24 (Seventh) to engage in leasing activities and noted that Federal law preempts state laws that purport to restrict an activity that is authorized by Federal law. Several commenters offered factual support for the assertion that selling reclaimed vehicles directly to the public generally yields a higher price.

The Ohio Department of Public Safety (OPDS) filed the only comment letter asserting that Federal law does not preempt the Ohio law. In that letter, the ODPS argued that there is no basis for preemption because the Ohio statute in question does not conflict with Federal law.

Analysis

Permissibility of the activity

It is well established that national banks are authorized to engage in the business of leasing automobiles. M&M Leasing Corporation v. Seattle First National Bank, 563 F. 2d 1377 (9th Cir. 1977). In M&M Leasing, the court determined that personal property leasing was a permissible activity for national banks because it was the functional equivalent of lending, an express power under the National Bank Act, 12 U.S.C. 24 (Seventh). Id. at 1382. In 1987, Congress specifically authorized national banks to lease personal property. 12 U.S.C. 24 (Tenth).[7] See also 12 CFR Part 23 (OCC regulation authorizing leasing for national banks and establishing requirements applicable to leasing activities conducted pursuant to 12 U.S.C. 24 (Seventh) and 12 U.S.C. 24 (Tenth)).

The authority to engage in the business of leasing includes the authority to dispose of leased property at the end of the lease. Courts have long recognized the ability of national banks to engage in the component activities of a permissible business. See Franklin Nat'l. Bank v. New York, 347 U.S. 373 (1954) (national banks may advertise bank services); Auten v. United States Nat'l. Bank, 174 U.S. 125 (1899) (national bank may borrow money); Arnold Tours, Inc. v. Camp, 472 F.2d 427 (1st Cir. 1972) (activity is permissible if it is convenient or useful to the business of banking). In these cases, the courts' holdings relied on whether the activity in question was ''useful'' to national banks in exercising their express powers.

In the situation you present, clearly the ability to dispose of reclaimed lease property is useful to banks engaging in leasing activities. Without the ability to dispose of

[4] The Banks state that selling reclaimed automobiles directly to the public nets the Banks on average $1500 more per vehicle than selling the vehicles at wholesale auctions, that is auctions in which only automobile dealers participate. Arguing in support of the Banks' position, one commenter suggested that this differential is supported by an analysis of prices in the November 2000 edition of the Black Book National Auto Research Official Used Car Market Guide Monthly.

[5] The OBMV memorandum appears to interpret section 4517 of the Ohio Revised Code. That section generally provides that no person shall—

Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer.''

Ohio Rev. Code Ann. § 4517.02(A)(2)(Anderson 1999).

The law provides an exception for ''mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of the mortgage contract.'' Ohio Rev. Code Ann. § 4517.02(A)(2)(Anderson 1999). Ohio law provides no similar exception for reclaimed leased vehicles.

[6] 65 FR 63916 (October 25, 2000) (the Notice). As stated in the Notice, section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, sec. 114, 108 Stat. 2338, 2366–68 (1994), codified at 12 U.S.C. 43) requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of Federal law in the areas of community reinvestment, consumer protection, fair lending, and the establishment of interstate branches. The OCC decided to publish the notice and invite comments on the issues raised in your letter without making a determination as to whether section 114 applies to your request.

[7] Your letter does not indicate on which source of authority the Banks rely in conducting the leasing activities in question.

reclaimed leased property, the banks could not conduct the leasing business. Thus, the issue presented by your letter is whether Federal law preempts a state law that restricts an essential aspect or component of an activity expressly authorized for a national bank.

Preemptive effect of Federal law

When the federal government acts within the sphere of authority conferred upon it by the Constitution, the Supreme Court has held that Federal law is paramount over, and thus preempts, state law. U.S. Const. art. VI, cl. 2 (the Supremacy Clause); Cohen v. Virginia, 19 U.S. (6 Wheat.) 264, 414 (1821) (Marshall, C.J.). Federal authority over national banks stems from several constitutional sources, including the Necessary and Proper Clause and the Commerce Clause of the United States Constitution. U.S. Const. art. I, § 8, cl.3, cl. 18; McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 409 (1819).

The United States Supreme Court has identified several bases for Federal preemption of state law. First, Congress may enact a statute that preempts state law. E.g., Jones v. Rath Packing Co., 430 U.S. 519 (1977). Second, a Federal statute may create a scheme of Federal regulation ''so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it.'' Rice v. Norman Williams Co., 458 U.S. 654, 659 (1982). Third, the state law may conflict with a Federal law. See, e.g., Franklin National Bank, supra; Davis v. Elmira Savings Bank, 161 U.S. 275 (1896).

In elaborating on the concept of conflict, the Supreme Court has recognized that conflict may exist even where compliance with both Federal and state law is possible. The Barnett court recognized that—

Federal law may be in ''irreconcilable conflict'' with state law. Rice v. Norman Williams Co., 458 U.S. 654, 659 (1982). Compliance with both statutes, for example, may be a ''physical impossibility,'' Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132, 142–143 (1963); *or,* the state law may ''*stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.*'' Hines v. Davidowitz, 312 U.S. 52, 67 (1941).

Barnett Bank v. Nelson, 517 U.S. 25, 31 (1996) (emphasis added).

The Supreme Court has recognized that state law generally should not limit powers granted by Congress—

In using the word ''powers,'' the statute chooses a legal concept that, in the context of national bank legislation, has a history. That history is one of interpreting grants of both enumerated and incidental ''powers'' to national banks as grants of authority not normally limited by, but rather ordinarily preempting, contrary state law.

Barnett, 517 U.S. at 32. See also Bank One v. Guttau, 190 F.3d 844, 847 (8th Cir.1999).

In determining whether a state law stands as an obstacle to a national bank's exercise of a Federally authorized power, the Supreme Court has evaluated whether a state statute interferes with the ability of a national bank to exercise that power. The Barnett Court stated that—

In defining the pre-emptive scope of statutes and regulations granting a power to national banks, these cases [i.e., national bank preemption cases] take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where * * * doing so does not prevent or significantly interfere with the national bank's exercise of its powers.

Barnett, 517 U.S. at 33.

The Court has held that Federal law preempts not only state laws that purport to prohibit a national bank from engaging in an activity permissible under Federal law but also state laws that condition the exercise by a national bank of a Federally authorized activity.

[W]here Congress has not expressly conditioned the grant of 'power' upon a grant of state permission, the Court has ordinarily found that no such condition applies. In Franklin Nat. Bank, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions because the federal power-granting statute there in question contained 'no indication that Congress[so] intended * * * as it has done by express language in several other instances.'

Barnett, 517 U.S. at 34 (citations omitted; emphasis in original).

Thus, a conflict between state law and Federal law need not be complete in order for Federal law to have preemptive effect. If a state law places limits on an unrestricted grant of authority under Federal law, the state law will be preempted.[8]

Application to Ohio law

In disposing of reclaimed property, national banks, like any other businesses, will endeavor to maximize their recovery on the property by disposing of it in the manner that will bring the highest return. In the case of national banks, the ordinary motivation to maximize return and minimize loss is reinforced by the legal obligation to operate in a safe and sound manner. National banks that engage in the business of automobile leasing are required by regulation to liquidate or re-lease such property as soon as practicable. 12 CFR 23.4(c). This requirement is contained in a section of the OCC's regulations designed ensure that national banks limit their exposure by conducting their leasing businesses in a safe and sound manner. See 12 CFR Part 23. A state law that prohibits a bank from disposing of off-lease property in the way that is most economically beneficial not only limits the bank's exercise of its Federally authorized power, but also increases the bank's loss exposure in a manner that is inconsistent with safe and sound banking principles.

While the Ohio law, as interpreted by the OBMV, does not prohibit a national bank from disposing of reclaimed vehicles, it does restrict national banks from disposing of leased vehicles in one of the usual and customary ways of doing so, namely, selling directly to the public. You have represented that the Banks' experience indicates that selling reclaimed vehicles directly to the public is the best way to recover vehicle costs. The OBMV has interpreted Ohio law to prohibit lessors from selling reclaimed vehicles at non-dealer auctions.

In our opinion, to the extent it is interpreted and applied in this manner, Ohio law frustrates the Banks' ability to operate their leasing businesses in an economically efficient manner consistent with safe and sound banking principles. Applying the standards set forth in Barnett, the state law significantly interferes with the Banks' exercise of their Federal powers. Therefore, it is our opinion that Federal law preempts the Ohio statute as interpreted by the OBMV.

Our conclusions are based on the facts and representations made in your letter. Any material change in facts or circumstances could affect the conclusions stated in this letter.

Sincerely,

Julie L. Williams,

First Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 01–11744 Filed 5–9–01; 8:45 am]

BILLING CODE 4810–33–P

[8] See also OCC Interpretive Letter No. 866 (Oct. 8, 1999) (opining that state law requirements that preclude national banks from soliciting trust business from customers located in states other than where the bank's main office is located would be preempted); OCC Interpretive Letter No. 749 (Sept. 13, 1996) (opining that state law requiring national banks to be licensed by the state to sell annuities would be preempted); OCC Interpretive Letter 644 (March 24, 1994) (opining that state registration and fee requirements imposed on mortgage lenders would be preempted).

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs will be held Tuesday and Wednesday, May 22–23, 2001, at VA Headquarters, Room 230, 810 Vermont Avenue, NW., Washington, DC. The May 22 session will convene at 8 a.m. and adjourn at 4 p.m. and the May 23 session will convene at 8 a.m. and adjourn at 12 noon. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or

other serious incapacities in terms of daily life functions.

On the morning of May 22, the Committee will hold a joint meeting with the Veterans' Advisory Committee on Rehabilitation to discuss mutual issues and concerns. Both Committees will also receive a briefing on the current status of the rehabilitation bed issue by the Chief Consultant of the Rehabilitation Strategic Healthcare Group. At the conclusion of the joint meeting, the Advisory Committee on Prosthetics and Special-Disabilities Programs will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last six months. In the afternoon, a briefing concerning the current status of VA's Capacity Report will be presented by the newly appointed Clinical Coordinator or her designee. On the morning of May 23, the Committee will continue to receive briefings by the National Program Directors of the special disability programs, i.e., spinal cord injury, blind rehabilitation, audiology and speech pathology, and prosthetics.

The meeting is open to the public. For those wishing to attend, please contact Ms. Kathy Pessagno, Veterans Health Administration (113), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 273–8512, prior to the meeting.

Dated: May 2, 2001.

By Direction of the Secretary.

Ventris C. Gibson,

Committee Management Officer.

[FR Doc. 01–11746 Filed 5–9–01; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 66, No. 91
Thursday, May 10, 2001

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 THE TREASURY

Customs Service

19 CFR Part 102

T.D. [01–36]

RIN 1515–AC80

Rules of Origin for Textile and Apparel Products

Correction

In rule document 01–10719, beginning on page 21660, in the issue of Tuesday, May 1, 2001, make the following correction:

§ 102.21 [Corrected]

On page 21664, in the table, §102.21, under the heading '' HTSUS'' the fourth number, ''6301–6303'' should read ''6301–6306''.

[FR Doc. C1–10719 Filed 5–9–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
May 10, 2001

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 410, et al.

Medicare Program, Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410, 411, 413, 424, 482, and 489

[HCFA–1163–P]

RIN 0938–AK47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update

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

ACTION: Proposed rule.

SUMMARY: This proposed rule updates the payment rates used under the prospective payment system (PPS) for skilled nursing facilities (SNFs), for fiscal year (FY) 2002, as required by statute. Annual updates to the PPS rates are required by section 1888(e) of the Social Security Act (the Act), as amended by the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA 1999), and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000), relating to Medicare payments and consolidated billing for SNFs. As part of this annual update, we are rebasing and revising the routine SNF market basket to reflect 1997 total cost data (the latest available complete data on the structure of SNF costs), and modifying certain variables for some of the cost categories. In addition, we propose to implement the transition of swing-bed facilities to the SNF PPS, as required by section 1888(e)(7) of the Act.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on July 9, 2001.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1163–P, P.O. Box 8013, Baltimore, MD 21244–8013.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Hubert H. Humphrey Building, Room 443–G, 200 Independence Avenue, SW., Washington, DC 20201, or Health Care Financing Administration, Room C5–15–03, 7500 Security Boulevard, Baltimore, MD 21244–8150.

Comments mailed to those addresses designated for courier delivery may be delayed and could be considered late. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Please refer to file code HCFA–1163–P on each comment. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of this document, in Room C5–12–08 of the Health Care Financing Administration, 7500 Security Boulevard, Baltimore, Maryland, Monday through Friday of each week from 8:30 a.m. to 5 p.m. Please call (410) 786–7197 to make an appointment to view comments.

FOR FURTHER INFORMATION CONTACT:

Dana Burley, (410) 786–4547 or Sheila Lambowitz, (410) 786–7605 (for information related to the case-mix classification methodology)
John Davis, (410) 786–0008 (for information related to the Wage Index)
Bill Ullman, (410) 786–5667 (for information related to consolidated billing)
Susan Burris, (410) 786–6655 (for information related to payment)
Sheila Lambowitz, (410) 786–7605 (for information related to swing-bed providers)
Bill Ullman, (410) 786–5667 or Susan Burris, (410) 786–6655 (for general information)

SUPPLEMENTARY INFORMATION:

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. The cost for each copy is $9. Please specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or toll free at 1–888–293–6498) or by faxing to (202) 512–2250. You can also view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

To assist readers in referencing sections contained in this document, we are providing the following table of contents.

Table of Contents

In addition, because of the many terms to which we refer by abbreviation in this proposed rule, we are listing these abbreviations and their corresponding terms in alphabetical order below:

ADL Activity of Daily Living
AHE Average Hourly Earnings
ARD Assessment Reference Date
BBA 1997 Balanced Budget Act of 1997, Pub. L. 105–33
BBRA 1999 Medicare, Medicaid and SCHIP Balanced Budget Refinement Act of 1999, Pub. L. 106–113
BEA (U.S.) Bureau of Economic Analysis
BIPA 2000 The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, Pub. L. 106–554
BES (U.S.) Business Expenditures Survey
BLS (U.S.) Bureau of Labor Statistics
CAH Critical Access Hospital
CFR Code of Federal Regulations
CPI Consumer Price Index
CPI–U Consumer Price Index-All Urban Consumers
CPT (Physicians') Current Procedural Terminology
DRG Diagnosis Related Group
ECI Employment Cost Index
FI Fiscal Intermediary
FR Federal Register
FY Fiscal Year
GAO General Accounting Office
HCFA Health Care Financing Administration
HCPCS HCFA Common Procedure Coding System
ICD–9–CM International Classification of Diseases, Ninth Edition, Clinical Modification
IFC Interim Final Rule with Comment Period
MDS Minimum Data Set
MEDPAR Medicare Provider Analysis and Review File
MIP Medicare Integrity Program
MSA Metropolitan Statistical Area
NECMA New England County Metropolitan Area
OIG Office of the Inspector General
OMRA Other Medicare Required Assessment
PCE Personal Care Expenditures
PPI Producer Price Index
PPS Prospective Payment System
PRM Provider Reimbursement Manual
RAI Resident Assessment Instrument
RAP Resident Assessment Protocol
RAVEN Resident Assessment Validation Entry
RUG Resource Utilization Groups
SCHIP State Children's Health Insurance Program
SNF Skilled Nursing Facility
STM Staff Time Measure

I. Background

On July 31, 2000, we published in the **Federal Register** (65 FR 46770), a final rule that set forth updates to the payment rates used under the prospective payment system (PPS) for skilled nursing facilities (SNFs), for fiscal year (FY) 2001. Annual updates to the PPS rates are required by section 1888(e) of the Social Security Act (the Act), as amended by the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA 1999) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000), relating to Medicare payments and consolidated billing for SNFs.

A. Current System for Payment of Skilled Nursing Facility Services Under Part A of the Medicare Program

Section 4432 of the Balanced Budget Act of 1997 (BBA 1997) amended section 1888 of the Act to provide for the implementation of a per diem PPS for SNFs, covering all costs (routine, ancillary, and capital) of covered SNF services furnished to beneficiaries under Part A of the Medicare program, effective for cost reporting periods beginning on or after July 1, 1998. We propose to update the per diem payment rates for SNFs, for FY 2002. Major elements of the SNF PPS include:

• *Rates.* Per diem Federal rates were established for urban and rural areas using allowable costs from FY 1995 cost reports. These rates also included an estimate of the cost of services that, before July 1, 1998, had been paid under Part B but furnished to Medicare beneficiaries in a SNF during a Part A covered stay. The rates were adjusted annually using a SNF market basket index. Rates were case-mix adjusted using a classification system (Resource Utilization Groups, version III (RUG–III)) based on beneficiary assessments (using the Minimum Data Set (MDS) 2.0). The rates were also adjusted by the hospital wage index to account for geographic variation in wages. (In section II.C of this preamble, we discuss the wage index adjustment in detail, including an examination of the feasibility of developing a wage index based on SNF-specific wage data.) At this time, data for the FY 2002 hospital wage index are not yet available; therefore, the index applied in this proposed rule is the same index used in the July 31, 2000 final rule. A correction notice was published on January 16, 2001 (66 FR 3497) that announced corrections to several of the wage factors. Additionally, as noted in the July 31, 2000 final rule (65 FR 46770), section 101 of BBRA 1999 also affects the payment rate. Finally, sections 311, 312, and 314 of BIPA 2000 affect the Part A PPS payment rates for SNFs. These new provisions are discussed in detail in section I.D. of this proposed rule.

• *Transition.* The SNF PPS includes an initial 3-year, phased transition that blended a facility-specific payment rate with the Federal case-mix adjusted rate. For each cost reporting period after a facility migrated to the new system, the facility-specific portion of the blend decreased and the Federal portion increased in 25 percentage point increments. For most facilities, the facility-specific rate was based on allowable costs from FY 1995; however, since the last year of the transition is FY 2001, all facilities will be paid at the full Federal rate by the coming fiscal year (FY 2002), for which we are now proposing updated rates. Therefore, unlike previous years, this proposed rule does not include adjustment factors related to facility-specific rates for the coming fiscal year.

• *Coverage.* Medicare's fundamental requirements for SNF coverage were not changed by BBA 1997; however, because RUG–III classification is based, in part, on the beneficiary's need for skilled nursing care and therapy, we have attempted, where possible, to coordinate claims review procedures with the outputs of beneficiary assessment and RUG–III classifying activities.

• *Consolidated Billing.* BBA 1997 included a billing provision that required a SNF to submit consolidated Medicare bills for its residents for almost all services that are covered under either Part A or Part B (the statute excluded a small list of services, primarily those of physicians and certain other types of practitioners). With the exception of physical therapy, occupational therapy, and speech-language therapy, section 313 of BIPA 2000 has now limited the scope of this

provision to apply only to those services that are furnished during the course of a resident's covered Part A stay in the SNF, as discussed later in this proposed rule.

• *Application of the SNF PPS to SNF services furnished by swing-bed hospitals.* Section 1883 of the Act permits certain small, rural hospitals to enter into a Medicare swing-bed agreement, under which the hospital can use its beds to provide either acute or SNF care, as needed. Part A currently pays for SNF services furnished by swing-bed hospitals on a cost-related basis. Section 1888(e)(7) of the Act requires the SNF PPS to encompass these services no earlier than cost reporting periods beginning on July 1, 1999, and no later than the end of the SNF PPS transition period described in section 1888(e)(2)(E) of the Act.

B. Requirements of the Balanced Budget Act of 1997 for Updating the Prospective Payment System for Skilled Nursing Facilities

Section 1888(e)(4)(H) of the Act requires that we publish in the **Federal Register:**

1. The unadjusted Federal per diem rates to be applied to days of covered SNF services furnished during the FY.

2. The case-mix classification system to be applied with respect to these services during the FY.

3. The factors to be applied in making the area wage adjustment with respect to these services.

In the July 30, 1999 final rule (64 FR 41670), we indicated that we would announce any changes to the guidelines for Medicare level of care determinations related to modifications in the RUG–III classification structure.

Along with a number of other revisions discussed later in this preamble, this proposed rule provides the annual updates to the Federal rates as mandated by the Act.

C. The Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA 1999)

There were several provisions in BBRA 1999 that resulted in adjustments to the PPS for SNFs. The provisions were described in the final rule that we published on July 31, 2000 (65 FR 46770). In particular, section 101 provided for a temporary, 20 percent increase in the per diem adjusted payment rates for 15 specified RUG–III groups (SE3, SE2, SE1, SSC, SSB, SSA, CC2, CC1, CB2, CB1, CA2, CA1, RHC, RMC, and RMB). Section 101 also included a 4 percent across-the-board increase in the adjusted Federal per diem payment rates each year for FYs 2001 and 2002, exclusive of the 20 percent increase.

We included further information on all of the provisions of BBRA 1999 in Program Memorandums A–99–53 and A–99–61 (December 1999), and Program Memorandum AB–00–18 (March 2000).

D. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000)

The following highlights the major provisions in BIPA 2000 that result in adjustments to the PPS for SNFs:

• *Section 203—Exemption of Critical Access Hospital (CAH) Swing-beds from SNF PPS.* This provision exempts swing-beds in CAHs from section 1888(e)(7) of the Act (as enacted by section 4432(a) of BBA 1997) which applies the SNF PPS to SNF services furnished by swing-bed hospitals. Accordingly, this provision enables CAHs to be paid for their swing-bed SNF services on a reasonable cost basis. This provision is effective with cost reporting periods beginning on or after December 21, 2000, the date of the enactment of this Act. We include further information on this provision in Program Memorandum A–01–09 (January 16, 2001).

• *Section 311—Elimination of Reduction in SNF Market Basket Update in 2001.* This provision eliminates the one percent reduction reflected in the update formula for the Federal rates for FY 2001 that was required by BBA 1997. In implementing this change, this provision modifies the schedule and rates according to which Federal per diem payments are updated. For FY 2002 and FY 2003, the updates would be the market basket index increase minus 0.5 percentage points. This provision also provides a special rule that, for purposes of making payments under the SNF PPS for FY 2001, for the first half of FY 2001 (the period beginning October 1, 2000, and ending March 31, 2001), the market basket update remains at market basket minus 1, and for the second half of the fiscal year (the period beginning on April 1, 2001, and ending on September 30, 2001), the market basket update changes from market basket minus 1 to market basket plus 1.

In addition, this provision requires the General Accounting Office (GAO) to submit a report to Congress by July 1, 2002, on the adequacy of SNF payment rates. It also requires the Secretary to conduct a study of the different systems for categorizing patients in SNFs in a manner that accounts for the relative resource utilization of different patient types, and to submit a report to Congress not later than January 1, 2005.

• *Section 312—Increase in Nursing Component of PPS Federal Rate.* This provision requires the Secretary to increase by 16.66 percent the nursing component of the case-mix adjusted Federal rate specified in the July 31, 2000 final rule (65 FR 46770) for services furnished on or after April 1, 2001, and before October 1, 2002. This provision also requires the GAO to conduct an audit of SNF nursing staff ratios, and to submit a report to Congress by August 1, 2002, including a recommendation on whether the temporary 16.66 percent increase in the nursing component should be continued.

• *Section 313—Application of SNF Consolidated Billing Requirement Limited to Part A Covered Stays.* This provision repeals the consolidated billing requirement for services (other than physical therapy, occupational therapy, and speech-language therapy) furnished to those SNF residents who are in non-covered stays, effective January 1, 2001. It also directs the Secretary to monitor Part B payments for such services, in order to guard against duplicate billing and the excessive provision of services.

• *Section 314—Adjustment of Rehabilitation RUGs to Correct Anomaly in Payment Rates.* For services furnished from April 1, 2001, until the date that RUG refinements are implemented, this provision requires the Secretary to increase by 6.7 percent the adjusted Federal per diem rate for all of the following RUG–III rehabilitation groups: RUC, RUB, RUA, RVC, RVB, RVA, RHC, RHB, RHA, RMC, RMB, RMA, RLB, and RLA. This provision amends section 101(b) of BBRA 1999 and supersedes the 20 percent increase that BBRA 1999 had previously established for the RHC, RMC, and RMB rehabilitation groups, and corrects the resulting anomaly under which the payment rates for these particular groups were actually higher than the rates for some other, more intensive rehabilitation RUGs. This provision also requires the Office of Inspector General (OIG) to review whether the RUG payment structure in effect under BBRA 1999 included incentives for the delivery of inadequate care and report to the Congress by October 1, 2001.

• *Section 315—Establishment of Process for Geographic Reclassification.* This provision explicitly permits the Secretary to establish a geographic reclassification procedure that is specific to SNFs, for purposes of payment for covered SNF services under the PPS. The Secretary may not implement this procedure until the

Secretary has collected data necessary to establish a SNF wage index that is based on wage data from nursing homes.

We include further information on several of these provisions in Program Memorandum A–01–08 (January 16, 2001).

E. Skilled Nursing Facility Prospective Payment—General Overview

The Medicare SNF PPS was implemented for cost reporting periods beginning on or after July 1, 1998. Under the PPS, SNFs are paid through prospective, case-mix adjusted per diem payment rates applicable to all covered SNF services. These payment rates cover all the costs of furnishing covered skilled nursing services (routine, ancillary, and capital-related costs) other than costs associated with approved educational activities. Covered SNF services include post-hospital services for which benefits are provided under Part A and all items and services that, before July 1, 1998, had been paid under Part B (other than physician and certain other services specifically excluded under BBA 1997) but furnished to Medicare beneficiaries in a SNF during a Part A covered stay. A complete discussion of these provisions appears in the May 12, 1998 interim final rule (63 FR 26252).

1. Payment Provisions—Federal Rate

The PPS uses per diem Federal payment rates based on mean SNF costs in a base year updated for inflation to the first effective period of the PPS. We developed the Federal payment rates using allowable costs from hospital-based and freestanding SNF cost reports for reporting periods beginning in FY 1995. The data used in developing the Federal rates also incorporated an estimate of the amounts that would be payable under Part B for covered SNF services furnished to individuals who were receiving Part A covered services in a SNF.

In developing the rates for the initial period, we updated costs to the first effective year of PPS (15-month period beginning July 1, 1998) using a SNF market basket index, and then standardized for the costs of facility differences in case-mix and for geographic variations in wages. Providers that received new provider exemptions from the routine cost limits were excluded from the database used to compute the Federal payment rates, as well as costs related to payments for exceptions to the routine cost limits. In accordance with the formula prescribed in BBA 1997, we set the Federal rates at a level equal to the weighted mean of freestanding costs plus 50 percent of the difference between the freestanding mean and weighted mean of all SNF costs (hospital-based and freestanding) combined. We computed and applied separately the payment rates for facilities located in urban and rural areas. In addition, we adjusted the portion of the Federal rate attributable to wage-related costs by a wage index.

The Federal rate also incorporates adjustments to account for facility case-mix, using a classification system that accounts for the relative resource utilization of different patient types. This classification system, RUG–III, utilizes beneficiary assessment data from the Minimum Data Set (MDS) completed by SNFs to assign beneficiaries to one of 44 groups. The May 12, 1998 interim final rule (63 FR 26252) included a complete and detailed description of the RUG–III classification system.

The Federal rates in this proposed rule reflect an update to the rates in the July 31, 2000 update notice (65 FR 46770) equal to the SNF market basket index minus 0.5 percent, as well as the elimination of the 1 percent reduction reflected in the update formula for the FY 2001 payment rates under section 311 of BIPA 2000. According to section 311 of BIPA 2000, for FY 2002, we will update the rate by adjusting the current rates by the SNF market basket change minus 0.5 percent.

2. Payment Provisions—Transition Period

The SNF PPS includes an initial, phased transition from a facility-specific rate (which reflects the individual facility's historical cost experience) to the Federal case-mix adjusted rate. The transition extends through the facility's first three cost reporting periods under the PPS, up to and including the one that begins in FY 2001. Accordingly, starting with cost reporting periods that begin in FY 2002, we will base payments entirely on the Federal rates.

F. Skilled Nursing Facility Market Basket Index

Section 1888(e)(5) of the Act requires the Secretary to establish a SNF market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered SNF services. The SNF market basket index is used to update the Federal rates on an annual basis. We are proposing a revised and rebased SNF market basket index that consists of the most commonly used cost categories for SNF routine services, ancillary services, and capital-related expenses. A complete discussion concerning the design and application of the proposed SNF market basket index is presented in Section III.

II. Update of Payment Rates Under the Prospective Payment System for Skilled Nursing Facilities

A. Federal Prospective Payment System

This proposed rule sets forth a schedule of Federal prospective payment rates applicable to Medicare Part A SNF services beginning October 1, 2001. The schedule incorporates per diem Federal rates that provide Part A payment for all costs of services furnished to a beneficiary in a SNF during a Medicare-covered stay.

1. Costs and Services Covered by the Federal Rates

The Federal rates apply to all costs (routine, ancillary, and capital-related costs) of covered SNF services other than costs associated with approved educational activities as defined in § 413.85. Under section 1888(e)(2) of the Act, covered SNF services include post-hospital SNF services for which benefits are provided under Part A (the hospital insurance program), as well as all items and services (other than those services excluded by statute) that, before July 1, 1998, were paid under Part B (the supplementary medical insurance program) but furnished to Medicare beneficiaries in a SNF during a Part A covered stay. (These excluded service categories are discussed in greater detail in section V.B.2. of the May 12, 1998 interim final rule (63 FR 26295–97)).

2. Methodology Used for the Calculation of the Federal Rates

The proposed FY 2002 rates would reflect an update using the latest market basket index minus 0.5 percentage point. The FY 2002 market basket update factor is 2.9 percent, and subtracting 0.5 percentage points yields an update of 2.4 percent. For a complete description of the multi-step process, see the May 12, 1998 interim final rule (63 FR 26252). In accordance with section 101 of BBRA 1999 and section 314 of BIPA 2000, we have provided for a temporary increase in the per diem adjusted payment rates of 20 percent for certain specified RUGs, and 6.7 percent for certain others. These temporary increases of 20 percent and 6.7 percent for certain specified RUGs will continue until implementation of case-mix refinements, as described in section 101 of BBRA 1999 and section 314 of BIPA 2000. Also, in accordance with section 101 of BBRA 1999, we are providing a 4 percent increase in the adjusted Federal rate for FY 2002. These temporary adjustments (that is, 20

percent, 6.7 percent, or 4 percent) are not reflected in the rate tables (Tables 1, 2, 3, 4, 5, and 6 of this proposed rule). Rather, in accordance with the statute, they are applied only after all other adjustments (wage and case-mix) have been made. Further, several provisions of BIPA 2000 affect the payment rates for SNFs, as described in the previous section.

We used the SNF market basket to adjust each per diem component of the Federal rates forward to reflect cost increases occurring between the midpoint of the Federal FY beginning October 1, 2000, and the midpoint of the Federal FY beginning October 1, 2001 and ending September 30, 2002, to which the payment rates apply. In accordance with section 311 of BIPA 2000, the payment rates are updated for FY 2002 by a factor equal to the annual market basket index percentage increase minus 0.5 percentage point. However, we note that section 311 of BIPA 2000 has also eliminated the one percent reduction in the market basket associated with the establishment of the FY 2001 payment rates. Therefore, in establishing the payment rates for FY 2002, we would update from the FY 2001 payment rates determined using the full market basket amount for that year rather than the rates as they appeared in the July 31, 2000 final rule (65 FR 46770), that were determined using the one percent reduction. As modified in this manner to reflect section 311 of BIPA 2000, the FY 2001 rates would be updated using the latest market basket minus 0.5 percentage point to determine the payment rates for FY 2002. The nursing case-mix component of the proposed rates, both urban and rural, includes the 16.66 percent increase provided by section 312 of BIPA 2000. The rates are further adjusted by a wage index budget neutrality factor, described later in this section. Tables 1 and 2 reflect the updated components of the unadjusted Federal rates (including both the market basket adjustment and the 16.66 percent increase in the nursing case-mix component).

TABLE 1.—UNADJUSTED FEDERAL RATE PER DIEM, URBAN

Rate component	Nursing—case-mix	Therapy—case-mix	Therapy—non-case-mix	Non-case-mix
Per Diem Amount	$137.89	$89.03	$11.73	$60.33

TABLE 2.—UNADJUSTED FEDERAL RATE PER DIEM, RURAL

Rate component	Nursing—case-mix	Therapy—case-mix	Therapy—non-case-mix	Non-case-mix
Per Diem Amount	$131.76	$102.67	$12.53	$61.44

B. Case-Mix Adjustment

For FY 2002, we are not proposing to modify the case-mix classification system. The payment rates set forth in this proposed rule reflect the continued use of the existing 44-group RUG–III classification system discussed in the May 12, 1998 interim final rule (63 FR 26252). Consequently, we will also maintain the add-ons to the Federal rates for specified RUG–III groups, as required by section 101 of BBRA 1999 and subsequently modified by section 314 of BIPA 2000. The case-mix adjusted payment rates are listed separately for urban and rural SNFs in Tables 3 and 4, with the corresponding case-mix index values. These tables do not reflect the add-ons (that is, 20 percent, 6.7 percent, or 4 percent) provided for in BBRA 1999 and BIPA 2000, which are applied only after all other adjustments (wage and case-mix) have been made.

TABLE 3.—CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES URBAN

RUG III category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp.	Non-case mix component	Total rate
RUC	1.30	2.25	179.26	200.32	.....	60.33	439.91
RUB	0.95	2.25	131.00	200.32	.....	60.33	391.65
RUA	0.78	2.25	107.55	200.32	.....	60.33	368.20
RVC	1.13	1.41	155.82	125.53	.....	60.33	341.68
RVB	1.04	1.41	143.41	125.53	.....	60.33	329.27
RVA	0.81	1.41	111.69	125.53	.....	60.33	297.55
RHC	1.26	0.94	173.74	83.69	.....	60.33	317.76
RHB	1.06	0.94	146.16	83.69	.....	60.33	290.18
RHA	0.87	0.94	119.96	83.69	.....	60.33	263.98
RMC	1.35	0.77	186.15	68.55	.....	60.33	315.03
RMB	1.09	0.77	150.30	68.55	.....	60.33	279.18
RMA	0.96	0.77	132.37	68.55	.....	60.33	261.25
RLB	1.11	0.43	153.06	38.28	.....	60.33	251.67
RLA	0.80	0.43	110.31	38.28	.....	60.33	208.92
SE3	1.70	.....	234.41	.....	11.73	60.33	306.47
SE2	1.39	.....	191.67	.....	11.73	60.33	263.73
SE1	1.17	.....	161.33	.....	11.73	60.33	233.39
SSC	1.13	.....	155.82	.....	11.73	60.33	227.88
SSB	1.05	.....	144.78	.....	11.73	60.33	216.84
SSA	1.01	.....	139.27	.....	11.73	60.33	211.33
CC2	1.12	.....	154.44	.....	11.73	60.33	226.50

TABLE 3.—CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES URBAN—Continued

RUG III category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp.	Non-case mix component	Total rate
CC1	0.99	.....	136.51	.....	11.73	60.33	208.57
CB2	0.91	.....	125.48	.....	11.73	60.33	197.54
CB1	0.84	.....	115.83	.....	11.73	60.33	187.89
CA2	0.83	.....	114.45	.....	11.73	60.33	186.51
CA1	0.75	.....	103.42	.....	11.73	60.33	175.48
IB2	0.69	.....	95.14	.....	11.73	60.33	167.20
IB1	0.67	.....	92.39	.....	11.73	60.33	164.45
IA2	0.57	.....	78.60	.....	11.73	60.33	150.66
IA1	0.53	.....	73.08	.....	11.73	60.33	145.14
BB2	0.68	.....	93.77	.....	11.73	60.33	165.83
BB1	0.65	.....	89.63	.....	11.73	60.33	161.69
BA2	0.56	.....	77.22	.....	11.73	60.33	149.28
BA1	0.48	.....	66.19	.....	11.73	60.33	138.25
PE2	0.79	.....	108.93	.....	11.73	60.33	180.99
PE1	0.77	.....	106.18	.....	11.73	60.33	178.24
PD2	0.72	.....	99.28	.....	11.73	60.33	171.34
PD1	0.70	.....	96.52	.....	11.73	60.33	168.58
PC2	0.65	.....	89.63	.....	11.73	60.33	161.69
PC1	0.64	.....	88.25	.....	11.73	60.33	160.31
PB2	0.51	.....	70.32	.....	11.73	60.33	142.38
PB1	0.50	.....	68.95	.....	11.73	60.33	141.01
PA2	0.49	.....	67.57	.....	11.73	60.33	139.63
PA1	0.46	.....	63.43	.....	11.73	60.33	135.49

TABLE 4.—CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES, RURAL

RUG III category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case mix component	Total rate
RUC	1.30	2.25	171.29	231.01	.....	61.44	463.74
RUB	0.95	2.25	125.17	231.01	.....	61.44	417.62
RUA	0.78	2.25	102.77	231.01	.....	61.44	395.22
RVC	1.13	1.41	148.89	144.76	.....	61.44	355.09
RVB	1.04	1.41	137.03	144.76	.....	61.44	343.23
RVA	0.81	1.41	106.73	144.76	.....	61.44	312.93
RHC	1.26	0.94	166.02	96.51	.....	61.44	323.97
RHB	1.06	0.94	139.67	96.51	.....	61.44	297.62
RHA	0.87	0.94	114.63	96.51	.....	61.44	272.58
RMC	1.35	0.77	177.88	79.06	.....	61.44	318.38
RMB	1.09	0.77	143.62	79.06	.....	61.44	284.12
RMA	0.96	0.77	126.49	79.06	.....	61.44	266.99
RLB	1.11	0.43	146.25	44.15	.....	61.44	251.84
RLA	0.80	0.43	105.41	44.15	.....	61.44	211.00
SE3	1.70	.....	223.99	.....	12.53	61.44	297.96
SE2	1.39	.....	183.15	.....	12.53	61.44	257.12
SE1	1.17	.....	154.16	.....	12.53	61.44	228.13
SSC	1.13	.....	148.89	.....	12.53	61.44	222.86
SSB	1.05	.....	138.35	.....	12.53	61.44	212.32
SSA	1.01	.....	133.08	.....	12.53	61.44	207.05
CC2	1.12	.....	147.57	.....	12.53	61.44	221.54
CC1	0.99	.....	130.44	.....	12.53	61.44	204.41
CB2	0.91	.....	119.90	.....	12.53	61.44	193.87
CB1	0.84	.....	110.68	.....	12.53	61.44	184.65
CA2	0.83	.....	109.36	.....	12.53	61.44	183.33
CA1	0.75	.....	98.82	.....	12.53	61.44	172.79
IB2	0.69	.....	90.91	.....	12.53	61.44	164.88
IB1	0.67	.....	88.28	.....	12.53	61.44	162.25
IA2	0.57	.....	75.10	.....	12.53	61.44	149.07
IA1	0.53	.....	69.83	.....	12.53	61.44	143.80
BB2	0.68	.....	89.60	.....	12.53	61.44	163.57
BB1	0.65	.....	85.64	.....	12.53	61.44	159.61
BA2	0.56	.....	73.79	.....	12.53	61.44	147.76
BA1	0.48	.....	63.24	.....	12.53	61.44	137.21
PE2	0.79	.....	104.09	.....	12.53	61.44	178.06
PE1	0.77	.....	101.46	.....	12.53	61.44	175.43
PD2	0.72	.....	94.87	.....	12.53	61.44	168.84
PD1	0.70	.....	92.23	.....	12.53	61.44	166.20

TABLE 4.—CASE-MIX ADJUSTED FEDERAL RATES AND ASSOCIATED INDEXES, RURAL—Continued

RUG III category	Nursing index	Therapy index	Nursing component	Therapy component	Non-case mix therapy comp	Non-case mix component	Total rate
PC2	0.65		85.64		12.53	61.44	159.61
PC1	0.64		84.33		12.53	61.44	158.30
PB2	0.51		67.20		12.53	61.44	141.17
PB1	0.50		65.88		12.53	61.44	139.85
PA2	0.49		64.56		12.53	61.44	138.53
PA1	0.46		60.61		12.53	61.44	134.58

We remain committed to efforts to monitor the RUG–III classification system and to pursue refinements in SNF payment. In the proposed rule associated with the FY 2001 SNF PPS update published April 10, 2000 (65 FR 19188), we had discussed options for refinements to the RUG–III classification system to account more accurately for the services provided to medically complex patients. The refinement approaches discussed had a particular focus on ancillary services other than rehabilitation (physical, occupational, and speech-language therapy), such as prescription drugs and respiratory therapy. We described our ongoing research and analyses in this area and shared the initial results that we proposed be incorporated into the Medicare SNF PPS system effective October 1, 2000. In that proposed rule, we cautioned that the proposed RUG–III refinements were based on limited data from seven states from periods prior to the implementation of the SNF PPS (1996 and 1997). Consequently, we indicated our plan to validate the findings using more current data from a broad national sample before issuing a final rule.

As discussed in the final rule published on July 31, 2000 (65 FR 46770), we conducted the validation analyses to determine the predictive power of the proposed case-mix models in identifying variations in non-therapy ancillary costs, using national data from a current period (that is, after the implementation of the SNF PPS). Based on these analyses, we determined that the refinement models developed using the pre-PPS sample were not effective in predicting resource use in the post-PPS environment. We identified several important variations in the post-PPS volume and distribution of beneficiaries and ancillary services costs using the 1999 national data, which appear to have affected the performance of the case-mix refinement models described in the proposed rule. We noted our belief that the introduction of the PPS and consolidated billing provisions for covered Part A SNF stays may have caused changes in facility practice patterns and billing. These changes, as well as the use of the broader national data sample, likely diminished the effectiveness of the models. Accordingly, in the final rule, we indicated our decision not to proceed with the implementation of case-mix refinements for FY 2001.

However, this decision did not in any way reflect a lack of commitment to pursuing appropriate case-mix refinements, and we remain dedicated to achieving this objective as quickly as possible. While the language in section 101 of BBRA 1999 does not directly mandate that we make case-mix refinements, we believe it nonetheless reflects a clear expectation that refinements will occur, by establishing payment adjustments that will expire upon the implementation of case-mix refinements, and by characterizing those adjustments as temporary. Accordingly, we are continuing our active efforts in this area, with the expectation that we will, over the next 12 months, develop case-mix refinements.

The inability of the specific case-mix refinement models based on a pre-PPS study sample (as described in the FY 2001 proposed rule) to explain behavior adequately in the post-PPS data does not warrant the conclusion that further efforts to improve the payment system's ability to allocate payments based on expected ancillary use would be unproductive. In fact, we believe there may well be the potential to establish meaningful refinements in the short term based on the results of a deliberate, comprehensive analysis using the extensive MDS 2.0, claims, and other administrative data now available. Moreover, this research will also provide an important foundation for a longer term analysis which seeks to identify alternative classification approaches in the SNF setting. The analysis we propose to conduct will be included in the report to Congress mandated by section 311 of BIPA 2000. This section requires us to submit the report no later than January 1, 2005. This work may also support a longer term goal, supported by HCFA and MedPAC, of developing more integrated approaches for the payment and delivery system for Medicare post acute services generally.

Therefore, we are currently proceeding with efforts to develop refinements to the RUG–III system, and are in the process of initiating a research contract in this area. We plan to look broadly for alternative refinement approaches that will improve the payment system's ability to account for the variation in resources associated with SNF patients generally, as well as medically complex patients and non-therapy ancillary services more specifically. This may include further analysis to develop a non-therapy ancillary index, similar to that proposed in the FY 2001 proposed rule, as well as exploration of other potential refinement approaches that could utilize information related to service use, function, diagnosis, and co-morbidities. In exploring possible refinement approaches, it is necessary to consider the potential effect of the refinements on aggregate SNF payments, as well as on access to and quality of care. In addition, we recognize the utility of using administrative data (such as claims) in the construction of the case-mix indexes and may, as MedPAC has recommended in the past, examine the potential for using this data to accomplish the tasks we are undertaking. Such an approach would facilitate annual updates to the case-mix indexes similar to the inpatient hospital PPS. In continuing this research, we will carefully consider the comments we received pursuant to the FY 2001 proposed rule. In addition, we specifically solicit comments in this proposed rule regarding possible approaches to refining the case-mix system.

While we recognize the need to seek improvements in the payment system, we are not aware of any substantive findings that demonstrate, as has been

suggested at recent MedPAC meetings, that the RUG–III system has proven to be unworkable. In fact, several recent reports indicate that quality and access do not appear to be impaired. This may be more a function of overall revenues available to SNFs under the PPS, especially considering recent increases in funding under BBRA 1999 and BIPA 2000. Even though they do not affect the current case-mix classification structure, a number of these recent payment increases are nonetheless intended to ensure that facilities continue to be paid appropriately until RUG refinements can be made. We also note that it may be premature to make assumptions regarding the effect of case-mix on provider behavior based on currently available data (which, at this point, still reflect only payments made during the transition period when SNFs received a blend of the Federal rate and facility-specific rate), since provider behavior may change significantly once payment is made under the fully case-mix adjusted Federal rates.

Further, it is worth noting that in research conducted to support the implementation of the SNF PPS, the RUG–III case-mix system was shown to predict approximately 55 percent of the overall variation in nursing and therapy staff time costs across total facility population (that includes both Medicare and Medicaid, as well as other patients). The level of variance explanation is somewhat less across the Medicare population due to its greater homogeneity. While we have not measured this directly, an examination of the 1997 staff time data focusing on patients in Medicare certified units that specialize in medically complex care or intensive rehabilitation found that RUG–III predicted 41 percent of nursing and rehabilitation staff time costs across total facility population (which includes Medicare, Medicaid, and private pay patients). We believe that it continues to be highly effective in this area. While we have found that pharmacy costs are correlated somewhat with the nursing case-mix indexes in RUG–III, it is important to note that such costs are, by and large, difficult to account for in case-mix systems because drug costs do not necessarily follow physical condition, resource use, or functional and clinical pathways.

We look forward to addressing this important issue through the study of alternative case-mix systems required under BIPA 2000, which provides an opportunity for a deliberate analytical approach to the question of how best to refine the current classification system or to redirect Medicare's payment system to produce more equitable payments for providers and best support access and quality of care for Medicare beneficiaries. Similarly, we look forward to the study required under section 545 of BIPA 2000 (required to be completed by January 1, 2005), which requires us to submit a report on the development of standard instruments for the assessment of the health and functional status of patients. We also invite comments on possible approaches to refining the current case-mix classification system, as well as on identifying and studying alternatives to the current system. With regard to the MDS 2.0, we continue to believe that the MDS is an accurate and effective assessment tool, which meets program objectives related to its major purposes of supporting quality of care and providing patient status and treatment information needed to support payment. We are currently engaged in a number of activities that support accurate completion of the MDS. These include expanded provider training, clearer definitions of certain MDS elements and coding instructions, and funding of program safeguard contractor activities to undertake auditing and verification of the MDS. We also note our concern that the OIG's recent reports related to the accuracy of the MDS contained a number of methodological limitations (as acknowledged in the reports) that limit their utility for drawing conclusions about the MDS.

However, we recognize the increased financial incentives that BIPA creates for the rehabilitation categories and the potential for upcoding under the SNF PPS to gain higher payments. In fact, the potential for inappropriate upcoding exists in any prospective payment system that uses coding of clinical information as the basis for determining payment amounts due to providers, and the SNF PPS (which bases payment amounts on the clinical information entered on the MDS) is no exception. In this context, we note that fiscal intermediaries (FIs) will continue reviewing SNF PPS bills. As with current practice, the FIs will focus on identifying instances in which inappropriate services were provided or where the beneficiary did not meet the requirements for Medicare Part A coverage in an SNF. As part of this review, the MDS and the medical record is assessed to verify that the reported information supports the RUG category billed.

We believe that the practice of FIs using a data driven approach to focus medical review efforts will help address the incentive for upcoding. Once bills have been targeted for review, the FIs will identify instances in which inappropriate services were provided or where the beneficiary did not meet the requirements for Medicare Part A coverage in a SNF. As part of this review, the medical record (which includes the MDS) is assessed to verify that the reported information supports the RUG category billed.

To lend further support to program safeguard efforts, we are in the process of awarding a contract to a Medicare Integrity Program (MIP) contractor to provide an ongoing centralized data surveillance process to assess the accuracy and reliability of MDS data particular to the health care furnished by SNFs, and payment for these services. This includes ensuring appropriate payment and payment denial decisions. The findings will produce evidence for further actions at national, regional, and State levels in addressing concerns in the areas of program integrity, beneficiary health and safety, and quality improvement. The contractor is also expected to perform monitoring and data analyses to determine if there are variations over time in the case-mix intensity, and whether those differences represent changes in actual or real case status of beneficiaries rather than changes that reflect improper provider behavior. Through the MIP contractor and the FIs, we will address instances of improper billing through recoupment of improper payments, intensified reviews, and provider education.

Further, in the context of our ongoing efforts to ensure accurate payment for appropriate care, we note a situation regarding rehabilitation therapy that is being provided in SNFs in a manner that conflicts with Medicare coverage guidelines. This issue involves providers that refuse to employ therapists who are unwilling to perform, on a routine basis, concurrent therapy. Concurrent therapy is the practice of one professional therapist treating more than one Medicare beneficiary at a time—in some cases, many more than one individual at a time.

Concurrent therapy is distinguished from group therapy, because all participants in group therapy are working on some common skill development and the ratio of participants to therapist may be no higher than 4 to 1. In addition, in the July 30, 1999 SNF PPS final rule (64 FR 41662), we specified that the minutes of group therapy received by the beneficiary may account for no more than 25 percent of the therapy (per discipline) received in a 7 day period. By contrast, a beneficiary who is receiving concurrent therapy with one or more other beneficiaries likely is not

receiving services that relate to those needed by any of the other participants. Although each beneficiary may be receiving care that is prescribed in his individual plan of treatment, it is not being delivered according to Medicare coverage guidelines; that is, the therapy is not being provided individually, and it is unlikely that the services being delivered are at the complex skill level required for coverage by Medicare.

The Medicare SNF benefit provides coverage of therapy services only when the services are of such a level of complexity and sophistication (or the beneficiary's condition is such) that the services can be safely and effectively performed only by or under the supervision of a qualified professional therapist. Therapy services that are concurrently being delivered by one treating therapist to many beneficiaries would not appear to meet these criteria. If the therapist or therapy assistant can provide distinct services to several beneficiaries at once, then it is unlikely that the services are sufficiently complex and sophisticated to qualify for coverage under the Medicare guidelines.

We note that there have always been isolated instances in which a professional therapist has been allowed to have some overlap in the time of concluding treatment to one individual and the time of commencing the treatment of another, even to the point of briefly providing therapy concurrently in certain cases. However, the key principle here is that Medicare relies on the professional judgment of the therapist to determine when, based on the complexity of the services to be delivered and the condition of the beneficiary, it is appropriate to deliver care to more than one beneficiary at the same time. Our concern now is that in some areas of the country, concurrent therapy is becoming a standard practice rather than the exception, and is being dictated by facility management personnel rather than according to the professional judgment of the therapists involved.

We believe that it is important to heighten the SNF and therapy industries' awareness of the applicable Medicare policy in this regard. Medicare policy has not, until now, specifically addressed coverage of skilled rehabilitation therapy in situations in which a single professional therapist (or therapy assistant under the supervision of the professional therapist) simultaneously provides different treatments to multiple beneficiaries. As noted above, we have relied on the professional therapist's judgment as to when it is appropriate for an individual therapist to provide services to more than one beneficiary. We now wish to advise the providers of care of our concern about the potentially adverse effect of this practice on the quality of the therapy provided to beneficiaries in Part A SNF stays, as well as our concern about the implications of making payments in such situations. We solicit public comments regarding the scope and magnitude of this problem, and possible approaches for addressing this issue.

C. Wage Index Adjustment to Federal Rates

Section 1888(e)(4)(G)(ii) of the Act requires that we adjust the Federal rates to account for differences in area wage levels, using an appropriate wage index, as determined by the Secretary. Section 315 of BIPA 2000 authorizes the Secretary to establish a reclassification system for SNFs, similar to the hospital methodology. This reclassification system cannot be implemented until the Secretary has collected data necessary to establish an area wage index for SNFs based on wage data from such facilities. Pursuant to section 106(a) of the Social Security Act Amendments of 1994 (P.L. 103–432), the Secretary was directed to begin to collect data on employee compensation and paid hours of employment in SNFs for the purpose of constructing a SNF wage index. Since the inception of a PPS for SNFs, we have utilized hospital wage data in developing a wage index to be applied to SNFs.

The computation of the proposed wage index is similar to past years because we incorporate the latest data and methodology used to construct the hospital wage index (see the discussion in the May 12, 1998 interim final rule (63 FR 26274)). The wage index adjustment is applied to the proposed labor-related portion of the Federal rate, which is 75.374 percent of the total rate. This percentage reflects the labor-related relative importance for FY 2002. The labor-related relative importance is calculated from the SNF market basket, and approximates the labor-related portion of the total costs after taking into account historical and projected price changes between the base year and FY 2002. The price proxies that move the different cost categories in the market basket do not necessarily change at the same rate, and the relative importance captures these changes. Accordingly, the relative importance figure more closely reflects the cost share weights for FY 2002 than the base year weights from the SNF market basket.

We calculate the labor-related relative importance for FY 2002 in four steps. First, we compute the FY 2002 price index level for the total market basket and each cost category of the market basket. Second, we calculate a ratio for each cost category by dividing the FY 2002 price index level for that cost category by the total market basket price index level. Third, we determine the FY 2002 relative importance for each cost category by multiplying this ratio by the base year (FY 1997) weight. Finally, we sum the FY 2002 relative importance for each of the labor-related cost categories (that is, wages and salaries; employee benefits; nonmedical professional fees; labor-intensive services; and, capital-related) to produce the FY 2002 labor-related relative importance. Tables 5 and 6 show the Federal rates by labor-related and non-labor-related components.

TABLE 5.—CASE-MIX ADJUSTED FEDERAL RATES FOR URBAN SNFS BY LABOR AND NON-LABOR COMPONENT

RUG III category	Total rate	Labor portion	Non-labor portion
RUC	439.91	331.58	108.33
RUB	391.65	295.20	96.45
RUA	368.20	277.53	90.67
RVC	341.68	257.54	84.14
RVB	329.27	248.18	81.09
RVA	297.55	224.28	73.27
RHC	317.76	239.51	78.25
RHB	290.18	218.72	71.46
RHA	263.98	198.97	65.01
RMC	315.03	237.45	77.58
RMB	279.18	210.43	68.75
RMA	261.25	196.91	64.34
RLB	251.67	189.69	61.98
RLA	208.92	157.47	51.45
SE3	306.47	231.00	75.47
SE2	263.73	198.78	64.95
SE1	233.39	175.92	57.47
SSC	227.88	171.76	56.12
SSB	216.84	163.44	53.40
SSA	211.33	159.29	52.04
CC2	226.50	170.72	55.78
CC1	208.57	157.21	51.36
CB2	197.54	148.89	48.65
CB1	187.89	141.62	46.27
CA2	186.51	140.58	45.93
CA1	175.48	132.27	43.21
IB2	167.20	126.03	41.17
IB1	164.45	123.95	40.50
IA2	150.66	113.56	37.10
IA1	145.14	109.40	35.74
BB2	165.83	124.99	40.84
BB1	161.69	121.87	39.82
BA2	149.28	112.52	36.76
BA1	138.25	704.20	34.05
PE2	780.99	136.42	44.57
PE1	178.24	134.35	43.89
PD2	171.34	129.15	42.19
PD1	168.58	127.07	41.51
PC2	161.69	121.87	39.82
PC1	160.31	120.83	39.48
PB2	142.38	107.32	35.06
PB1	141.01	106.28	34.73

TABLE 5.—CASE-MIX ADJUSTED FEDERAL RATES FOR URBAN SNFS BY LABOR AND NON-LABOR COMPONENT—Continued

RUG III category	Total rate	Labor portion	Non-labor portion
PA2	139.63	105.24	34.39
PA1	135.49	102.12	33.37

TABLE 6.—CASE-MIX ADJUSTED FEDERAL RATES FOR RURAL SNFS BY LABOR AND NON-LABOR COMPONENT

RUG III category	Total rate	Labor portion	Non-labor portion
RUC	463.74	349.54	114.20
RUB	417.62	314.78	102.84
RUA	395.22	297.89	97.33
RVC	355.09	267.65	87.44
RVB	343.23	258.71	84.52
RVA	312.93	235.87	77.06
RHC	323.97	244.19	79.78
RHB	297.62	224.33	73.29
RHA	272.58	205.45	67.13
RMC	318.38	239.98	78.40
RMB	284.12	214.15	69.97
RMA	266.99	201.24	65.75
RLB	251.84	189.82	62.02
RLA	211.00	159.04	51.96
SE3	297.96	224.58	73.38
SE2	257.12	193.80	63.32
SE1	228.13	171.95	56.18
SSC	222.86	167.98	54.88
SSB	212.32	160.03	52.29
SSA	207.05	156.06	50.99
CC2	221.54	166.98	54.56
CC1	204.41	154.07	50.34
CB2	193.87	146.13	47.74
CB1	184.65	139.18	45.47
CA2	183.33	138.18	45.15
CA1	172.79	130.24	42.55
IB2	164.88	124.28	40.60
IB1	162.25	122.29	39.96
IA2	149.07	112.36	36.71
IA1	143.80	108.39	35.41
BB2	163.57	123.29	40.28
BB1	159.61	120.30	39.31
BA2	147.76	111.37	36.39
BA1	137.21	103.42	33.79
PE2	178.06	134.21	43.85
PE1	175.43	132.23	43.20
PD2	168.84	127.26	41.58
PD1	166.20	125.27	40.93
PC2	159.61	120.30	39.31
PC1	158.30	119.32	38.98
PB2	141.17	106.41	34.76
PB1	139.85	105.41	34.44

TABLE 6.—CASE-MIX ADJUSTED FEDERAL RATES FOR RURAL SNFS BY LABOR AND NON-LABOR COMPONENT—Continued

RUG III category	Total rate	Labor portion	Non-labor portion
PA2	138.53	104.42	34.11
PA1	134.58	101.44	33.14

Section 1888(e)(4)(G)(ii) of the Act also requires that the application of this wage index be made in a manner that does not result in aggregate payments that are greater or lesser than would otherwise be made in the absence of the wage adjustment. In this fourth PPS year (Federal rates effective October 1, 2001), we are updating the wage index applicable to SNF payments using the most recent hospital wage data and applying an adjustment to fulfill the budget neutrality requirement. This requirement will be met by multiplying each of the components of the unadjusted Federal rates by a factor equal to the ratio of the volume weighted mean wage adjustment factor (using the wage index from the previous year) to the volume weighted mean wage adjustment factor, using the wage index for the FY beginning October 1, 2001. The same volume weights are used in both the numerator and denominator and will be derived from 1997 Medicare Provider Analysis and Review File (MEDPAR) data. The wage adjustment factor used in this calculation is defined as the labor share of the rate component multiplied by the wage index plus the non-labor share. The proposed budget neutrality factor for FY 2002 is .99939.

Over the past few years, we have received many comments asking that we evaluate a SNF-specific wage index, which would be based solely on wage and hourly data from SNFs. To develop this analysis, a schedule was added to the cost report to gather wage and hourly data from each SNF. In this proposed rule we are publishing a wage index prototype based on SNF data, along with the wage index based on the hospital wage data that was used in the FY 2001 final rule published July 31, 2000 in the **Federal Register** (65 FR 46770).

The wage index computations for the SNF prototype were done in the same manner as the current wage index based on hospital data, except that SNFs use one of three cost reports to report their data: Freestanding SNFs use the HCFA–2540, Worksheet S–3; hospital-based SNFs use the HCFA–2552, Worksheet S–3; and low-volume SNF providers use the HCFA–2540-S, Worksheet S–3.

The SNF-specific wage indexes illustrated in Table 7 include the following categories of data associated with costs paid under the SNF PPS:

- Salaries and hours from freestanding and hospital-based SNFs.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology used in the development of the hospital wage index, the wage indexes published here would also continue to exclude the direct and overhead costs of salaries and hours for services not paid through the SNF PPS, such as home health services, and other sub-provider components that are not subject to the PPS. In addition, as is done in computing the hospital wage index, we would phase out costs associated with graduate medical education (GME) (teaching physicians and residents). For purposes of illustrating the wage indexes shown in Table 7, the SNF wage index is based on a blend of 60 percent of an average hourly wage including the GME costs, and 40 percent of an average hourly wage excluding these costs.

Table 7 shows a side by side comparison of the wage index. Column A shows the Metropolitan Statistical Area (MSA); Column B shows the wage index, utilizing data derived from SNFs with cost reporting periods ending during FY 1998; Column C shows the wage index developed using SNF data from cost reporting periods ending during FY 1999; and Column D shows the wage index from the FY 2001 final rule, as revised by the correction notice published on January 16, 2001 (66 FR 3497).

TABLE 7.—WAGE INDEX FOR URBAN AREAS

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
0040 Abilene, TX Taylor, TX	0.7354	0.8162	0.8240
0060 Aguadilla, PR Aguada, PR	0.0000	0.0000	0.4391

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Aguadilla, PR Moca, PR			
0080 Akron, OH Portage, OH Summit, OH	0.9636	1.0553	0.9736
0120 Albany, GA Dougherty, GA Lee, GA	0.6203	0.7460	0.9933
0160 Albany-Schenectady-Troy, NY Albany, NY Montgomery, NY Rensselaer, NY Saratoga, NY Schenectady, NY Schoharie, NY	1.0860	1.0809	0.8549
0200 Albuquerque, NM Bernalillo, NM Sandoval, NM Valencia, NM	0.7892	0.7980	0.9136
0220 Alexandria, LA Rapides, LA	0.7849	0.6318	0.8123
0240 Allentown-Bethlehem-Easton, PA Carbon, PA Lehigh, PA Northampton, PA	1.1553	1.0749	0.9925
0280 Altoona, PA Blair, PA	0.9559	0.9712	0.9346
0320 Amarillo, TX Potter, TX Randall, TX	0.8377	0.8338	0.8715
0380 Anchorage, AK Anchorage, AK	1.5003	1.4716	1.2793
0440 Ann Arbor, MI Lenawee, MI Livingston, MI Washtenaw, MI	1.0845	1.1059	1.1254
0450 Anniston, AL Calhoun, AL	0.7619	0.9226	0.8284
0460 Appleton-Oshkosh-Neenah, WI Calumet, WI Outagamie, WI Winnebago, WI	1.0962	1.0662	0.9052
0470 Arecibo, PR Arecibo, PR Camuy, PR Hatillo, PR	0.0000	0.0000	0.4525
0480 Asheville, NC Buncombe, NC Madison, NC	0.9090	0.9482	0.9516
0500 Athens, GA Clarke, GA Madison, GA Oconee, GA	0.9653	0.9264	0.9739
0520 Atlanta, GA Barrow, GA Bartow, GA Carroll, GA Cherokee, GA Clayton, GA Cobb, GA Coweta, GA De Kalb, GA Douglas, GA Fayette, GA Forsyth, GA Fulton, GA Gwinnett, GA Henry, GA Newton, GA Paulding, GA Pickens, GA Rockdale, GA Spalding, GA Walton, GA	0.9733	0.9474	1.0096
0560 Atlantic City-Cape May, NJ Atlantic City, NJ Cape May, NJ	1.1443	1.1406	1.1182

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
0580 Auburn-Opelika, AL	0.9892	0.8857	0.8106
Lee, AL			
0600 Augusta-Aiken, GA-SC	0.7831	0.7898	0.9160
Columbia, GA			
McDuffie, GA			
Richmond, GA			
Aiken, SC			
Edgefield, SC			
0640 Austin-San Marcos, TX	0.8694	0.8826	0.9577
Bastrop, TX			
Caldwell, TX			
Hays, TX			
Travis, TX			
Williamson, TX			
0680 Bakersfield, CA	1.0005	1.0059	0.9678
Kern, CA			
0720 Baltimore, MD	1.0144	0.9797	0.9365
Anne Arundel, MD			
Baltimore, MD			
Baltimore City, MD			
Carroll, MD			
Harford, MD			
Howard, MD			
Queen Annes, MD			
0733 Bangor, ME	1.0358	0.8851	0.9561
Penobscot, ME			
0743 Barnstable-Yarmouth, MA	1.2663	1.2722	1.3839
Barnstable, MA			
0760 Baton Rouge, LA	0.7459	0.7803	0.8842
Ascension, LA			
East Baton Rouge, LA			
Livingston, LA			
West Baton Rouge, LA			
0840 Beaumont-Port Arthur, TX	0.8049	0.7895	0.8744
Hardin, TX			
Jefferson, TX			
Orange, TX			
0860 Bellingham, WA	0.9121	0.8984	1.1439
Whatcom, WA			
0870 Benton Harbor, MI	0.8766	0.9098	0.8671
Berrien, MI			
0875 Bergen-Passaic, NJ	1.3811	1.2739	1.1848
Bergen, NJ			
Passaic, NJ			
0880 Billings, MT	0.9429	0.9017	0.9585
Yellowstone, MT			
0920 Biloxi-Gulfport-Pascagoula, MS	0.8023	0.9676	0.8236
Hancock, MS			
Harrison, MS			
Jackson, MS			
0960 Binghamton, NY	0.9400	0.9231	0.8690
Broome, NY			
Tioga, NY			
1000 Birmingham, AL	0.8846	0.9155	0.8452
Blount, AL			
Jefferson, AL			
St. Clair, AL			
Shelby, AL			
1010 Bismarck, ND	0.8939	0.8745	0.7705
Burleigh, ND			
Morton, ND			
1020 Bloomington, IN	0.8272	0.9108	0.8733
Monroe, IN			
1040 Bloomington-Normal, IL	0.8547	0.9268	0.9095
McLean, IL			
1080 Boise City, ID	1.0779	0.9592	0.9006
Ada, ID			
Canyon, ID			
1123 Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	1.2273	1.1947	1.1160
Bristol, MA			
Essex, MA			
Middlesex, MA			
Norfolk, MA			
Plymouth, MA			
Suffolk, MA			
Worcester, MA			
Hillsborough, NH			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Merrimack, NH Rockingham, NH Strafford, NH			
1125 Boulder-Longmont, CO Boulder, CO	1.1414	0.9062	0.9731
1145 Brazoria, TX Brazoria, TX	0.7869	0.7187	0.8658
1150 Bremerton, WA Kitsap, WA	0.9945	0.9732	1.0975
1240 Brownsville-Harlingen-San Benito, TX Cameron, TX	0.8226	0.7991	0.8722
1260 Bryan-College Station, TX Brazos, TX	0.8326	0.6742	0.8237
1280 Buffalo-Niagara Falls, NY Erie, NY Niagara, NY	1.0114	0.9494	0.9580
1303 Burlington, VT Chittenden, VT Franklin, VT Grand Isle, VT	1.0690	1.0145	1.0735
1310 Caguas, PR Caguas, PR Cayey, PR Cidra, PR Gurabo, PR San Lorenzo, PR	0.0000	0.0000	0.4562
1320 Canton-Massillon, OH Carroll, OH Stark, OH	0.9343	0.8839	0.8584
1350 Casper, WY Natrona, WY	0.7798	0.8405	0.8724
1360 Cedar Rapids, IA Linn, IA	0.8652	0.9390	0.8736
1400 Champaign-Urbana, IL Champaign, IL	0.9478	1.0588	0.9198
1440 Charleston-North Charleston, SC Berkeley, SC Charleston, SC Dorchester, SC	0.7764	0.7695	0.9038
1480 Charleston, WV Kanawha, WV Putnam, WV	0.9525	0.9975	0.9240
1520 Charlotte-Gastonia-Rock Hill, NC–SC Cabarrus, NC Gaston, NC Lincoln, NC Mecklenburg, NC Rowan, NC Stanly, NC Union, NC York, SC	1.0230	0.9661	0.9407
1540 Charlottesville, VA Albemarle, VA Charlottesville City, VA Fluvanna, VA Greene, VA	0.9619	0.9943	1.0789
1560 Chattanooga, TN–GA Catoosa, GA Dade, GA Walker, GA Hamilton, TN Marion, TN	0.9186	0.8876	0.9833
1580 Cheyenne, WY Laramie, WY	1.0743	0.9800	0.8308
1600 Chicago, IL Cook, IL De Kalb, IL Du Page, IL Grundy, IL Kane, IL Kendall, IL Lake, IL McHenry, IL Will, IL	0.9358	0.9860	1.1146
1620 Chico-Paradise, CA Butte, CA	0.9238	0.9565	0.9918

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
1640 Cincinnati, OH–KY–IN	0.9579	0.9615	0.9415
Dearborn, IN			
Ohio, IN			
Boone, KY			
Campbell, KY			
Gallatin, KY			
Grant, KY			
Kenton, KY			
Pendleton, KY			
Brown, OH			
Clermont, OH			
Hamilton, OH			
Warren, OH			
1660 Clarksville-Hopkinsville, TN–KY	0.7928	0.7668	0.8204
Christian, KY			
Montgomery, TN			
1680 Cleveland-Lorain-Elyria, OH	1.0330	1.0271	0.9597
Ashtabula, OH			
Geauga, OH			
Cuyahoga, OH			
Lake, OH			
Lorain, OH			
Medina, OH			
1720 Colorado Springs, CO	0.8972	0.9387	0.9697
El Paso, CO			
1740 Columbia, MO	0.9174	0.8050	0.8961
Boone, MO			
1760 Columbia, SC	0.9423	0.9195	0.9554
Lexington, SC			
Richland, SC			
1800 Columbus, GA–AL	0.7897	0.8062	0.8568
Russell, AL			
Chattanoochee, GA			
Harris, GA			
Muscogee, GA			
1840 Columbus, OH	1.0294	1.0288	0.9619
Delaware, OH			
Fairfield, OH			
Franklin, OH			
Licking, OH			
Madison, OH			
Pickaway, OH			
1880 Corpus Christi, TX	0.8333	0.8573	0.8726
Nueces, TX			
San Patricio, TX			
1890 Corvallis, OR	0.7759	0.8492	1.1326
Benton, OR			
1900 Cumberland, MD–WV	0.8879	0.9957	0.8369
Allegany, MD			
Mineral, WV			
1920 Dallas, TX	0.8943	0.9558	0.9913
Collin, TX			
Dallas, TX			
Denton, TX			
Ellis, TX			
Henderson, TX			
Hunt, TX			
Kaufman, TX			
Rockwall, TX			
1950 Danville, VA	0.7390	0.7589	0.8589
Danville City, VA			
Pittsylvania, VA			
1960 Davenport-Moline-Rock Island, IA–IL	0.8633	0.8694	0.8898
Scott, IA			
Henry, IL			
Rock Island, IL			
2000 Dayton-Springfield, OH	0.9102	0.9455	0.9442
Clark, OH			
Greene, OH			
Miami, OH			
Montgomery, OH			
2020 Daytona Beach, FL	0.8922	0.9231	0.9200
Flagler, FL			
Volusia, FL			
2030 Decatur, AL	0.9186	0.8669	0.8534
Lawrence, AL			
Morgan, AL			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
2040 Decatur, IL	0.8804	0.8322	0.8125
Macon, IL			
2080 Denver, CO	1.0833	1.0643	1.0181
Adams, CO			
Arapahoe, CO			
Denver, CO			
Douglas, CO			
Jefferson, CO			
2120 Des Moines, IA	0.9003	0.9712	0.9118
Dallas, IA			
Polk, IA			
Warren, IA			
2160 Detroit, MI	0.9798	0.9957	1.0510
Lapeer, MI			
Macomb, MI			
Monroe, MI			
Oakland, MI			
St. Clair, MI			
Wayne, MI			
2180 Dothan, AL	0.7485	0.8621	0.7943
Dale, AL			
Houston, AL			
2190 Dover, DE	1.1346	1.0334	1.0078
Kent, DE			
2200 Dubuque, IA	0.9533	1.0244	0.8746
Dubuque, IA			
2240 Duluth-Superior, MN–WI	0.9492	1.0842	1.0032
St. Louis, MN			
Douglas, WI			
2281 Dutchess County, NY	1.0745	1.1267	1.0249
Dutchess, NY			
2290 Eau Claire, WI	0.9402	0.9868	0.8790
Chippewa, WI			
Eau Claire, WI			
2320 El Paso, TX	0.7912	0.8687	0.9346
El Paso, TX			
2330 Elkhart-Goshen, IN	1.0718	0.9752	0.9145
Elkhart, IN			
2335 Elmira, NY	1.0063	1.0535	0.8546
Chemung, NY			
2340 Enid, OK	0.7874	0.7879	0.8610
Garfield, OK			
2360 Erie, PA	1.0605	1.0583	0.8985
Erie, PA			
2400 Eugene-Springfield, OR	0.8713	0.8417	1.0965
Lane, OR			
2440 Evansville-Henderson, IN–KY	0.9297	0.9342	0.8173
Posey, IN			
Vanderburgh, IN			
Warrick, IN			
Henderson, KY			
2520 Fargo-Moorhead, ND–MN	0.9621	1.0643	0.8749
Clay, MN			
Cass, ND			
2560 Fayetteville, NC	0.8495	0.8584	0.8655
Cumberland, NC			
2580 Fayetteville-Springdale-Rogers, AR	0.8193	0.8512	0.7910
Benton, AR			
Washington, AR			
2620 Flagstaff, AZ–UT	1.2591	1.0997	1.0686
Coconino, AZ			
Kane, UT			
2640 Flint, MI	0.9788	0.9726	1.1205
Genesee, MI			
2650 Florence, AL	0.9251	0.9031	0.7616
Colbert, AL			
Lauderdale, AL			
2655 Florence, SC	0.7684	0.7799	0.8777
Florence, SC			
2670 Fort Collins-Loveland, CO	0.9010	0.9680	1.0647
Larimer, CO			
2680 Ft. Lauderdale, FL	0.9681	0.9625	1.0121
Broward, FL			
2700 Fort Myers-Cape Coral, FL	0.9444	0.8951	0.9247
Lee, FL			
2710 Fort Pierce-Port St. Lucie, FL	1.0172	0.9880	0.9538
Martin, FL			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
St. Lucie, FL			
2720 Fort Smith, AR–OK	0.7268	0.7499	0.8052
Crawford, AR			
Sebastian, AR			
Sequoyah, OK			
2750 Fort Walton Beach, FL	0.9440	0.9582	0.9607
Okaloosa, FL			
2760 Fort Wayne, IN .	0.9082	0.9763	0.8665
Adams, IN			
Allen, IN			
De Kalb, IN			
Huntington, IN			
Wells, IN			
Whitley, IN			
2800 Forth Worth-Arlington, TX	0.8821	0.9047	0.9527
Hood, TX			
Johnson, TX			
Parker, TX			
Tarrant, TX			
2840 Fresno, CA	0.8738	0.9823	1.0104
Fresno, CA			
Madera, CA			
2880 Gadsden, AL	0.9108	0.6287	0.8423
Etowah, AL			
2900 Gainesville, FL	0.9325	1.0300	1.0074
Alachua, FL			
2920 Galveston-Texas City, TX	0.7678	0.6821	0.9918
Galveston, TX			
2960 Gary, IN	0.9827	0.9807	0.9454
Lake, IN			
Porter, IN			
2975 Glens Falls, NY	0.9560	0.9772	0.8361
Warren, NY			
Washington, NY			
2980 Goldsboro, NC	0.9370	0.8740	0.8423
Wayne, NC			
2985 Grand Forks, ND–MN	0.8816	0.9022	0.8816
Polk, MN			
Grand Forks, ND			
2995 Grand Junction, CO	0.9539	0.9156	0.9109
Mesa, CO.			
3000 Grand Rapids-Muskegon-Holland, MI	0.9715	0.9978	1.0248
Allegan, MI			
Kent, MI			
Muskegon, MI			
Ottawa, MI			
3040 Great Falls, MT	0.9712	1.0019	0.9065
Cascade, MT			
3060 Greeley, CO	0.9253	0.8880	0.9814
Weld, CO			
3080 Green Bay, WI	0.9441	1.0262	0.9225
Brown, WI			
3120 Greensboro-Winston-Salem-High Point, NC	1.0166	0.9782	0.9131
Alamance, NC			
Davidson, NC			
Davie, NC			
Forsyth, NC			
Guilford, NC			
Randolph, NC			
Stokes, NC			
Yadkin, NC			
3150 Greenville, NC	0.8844	0.9400	0.9384
Pitt, NC			
3160 Greenville-Spartanburg-Anderson, SC	0.8362	0.9622	0.9003
Anderson, SC			
Cherokee, SC			
Greenville, SC			
Pickens, SC			
Spartanburg, SC			
3180 Hagerstown, MD	0.9318	0.9153	0.9409
Washington, MD			
3200 Hamilton-Middletown, OH	0.9739	0.9532	0.9061
Butler, OH			
3240 Harrisburg-Lebanon-Carlisle, PA	1.1052	1.0753	0.9386
Cumberland, PA			
Dauphin, PA			
Lebanon, PA			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Perry, PA			
3283 Hartford, CT	1.2733	1.1675	1.1373
Hartford, CT			
Litchfield, CT			
Middlesex, CT			
Tolland, CT			
3285 Hattiesburg, MS	0.8421	0.7540	0.7490
Forrest, MS			
Lamar, MS			
3290 Hickory-Morganton-Lenoir, NC	0.9086	0.9027	0.9008
Alexander, NC			
Burke, NC			
Caldwell, NC			
Catawba, NC			
3320 Honolulu, HI	1.2242	1.2838	1.1863
Honolulu, HI			
3350 Houma, LA	0.6694	0..6749	0.8086
Lafourche, LA			
Terrebonne, LA			
3360 Houston, TX	0.8506	0.8634	0.9732
Chambers, TX			
Fort Bend, TX			
Harris, TX			
Liberty, TX			
Montgomery, TX			
Waller, TX			
3400 Huntington-Ashland, WV–KY–OH	0.7948	0.8957	0.9876
Boyd, KY			
Carter, KY			
Greenup, KY			
Lawrence, OH			
Cabell, WV			
Wayne, WV			
3440 Huntsville, AL	0.9774	0.7569	0.8932
Limestone, AL			
Madison, AL			
3480 Indianapolis, IN	0.9932	1.0128	0.9787
Boone, IN			
Hamilton, IN			
Hancock, IN			
Hendricks, IN			
Johnson, IN			
Madison, IN			
Marion, IN			
Morgan, IN			
Shelby, IN			
3500 Iowa City, IA	0.9092	0.8611	0.9657
Johnson, IA			
3520 Jackson, MI	0.9393	1.0367	0.9134
Jackson, MI			
3560 Jackson, MS	0.8731	0.9642	0.8812
Hinds, MS			
Madison, MS			
Rankin, MS			
3580 Jackson, TN	0.9437	0.8032	0.8796
Chester, TN			
Madison, TN			
3600 Jacksonville, FL	0.9566	0.9309	0.9208
Clay, FL			
Duval, FL			
Nassau, FL			
St. Johns, FL			
3605 Jacksonville, NC	0.6554	0.8257	0.7777
Onslow, NC			
3610 Jamestown, NY	0.9276	0.8990	0.7818
Chautaqua, NY			
3620 Janesville-Beloit, WI	0.8899	0.9652	0.9585
Rock, WI			
3640 Jersey City, NJ	1.2879	0.8535	1.1502
Hudson, NJ			
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8853	0.8303	0.8272
Carter, TN			
Hawkins, TN			
Sullivan, TN			
Unicoi, TN			
Washington, TN			
Bristol City, VA			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Scott, VA Washington, VA			
3680 Johnstown, PA Cambria, PA Somerset, PA	0.9877	0.9914	0.8846
3700 Jonesboro, AR Craighead, AR	0.6568	0.8322	0.7832
3710 Joplin, MO Jasper, MO Newton, MO	0.8112	0.8128	0.8148
3720 Kalamazoo-Battle Creek, MI Calhoun, MI Kalamazoo, MI Van Buren, MI	0.9773	0.9982	1.0453
3740 Kankakee, IL Kankakee, IL	0.8635	0.8886	0.9902
3760 Kansas City, KS–MO Johnson, KS Leavenworth, KS Miami, KS Wyandotte, KS Cass, MO Clay, MO Clinton, MO Jackson, MO Lafayette, MO Platte, MO Ray, MO	0.9439	0.9726	0.9527
3800 Kenosha, WI Kenosha, WI	1.1006	1.0354	0.9611
3810 Killeen-Temple, TX Bell, TX Coryell, TX	0.7996	0.8280	1.0119
3840 Knoxville, TN Anderson, TN Blount, TN Knox, TN Loudon, TN Sevier, TN Union, TN	0.9046	0.8712	0.8340
3850 Kokomo, IN Howard, IN Tipton, IN	1.0415	0.8785	0.9518
3870 La Crosse, WI–MN Houston, MN La Crosse, WI	0.9343	0.9838	0.9211
3880 Lafayette, LA Acadia, LA Lafayette, LA St. Landry, LA St. Martin, LA	0.7373	0.7000	0.8490
3920 Lafayette, IN Clinton, IN Tippecanoe, IN	1.0308	0.9298	0.8834
3960 Lake Charles, LA Calcasieu, LA	0.7437	0.7102	0.7399
3980 Lakeland-Winter Haven, FL Polk, FL	1.0545	1.0235	0.9239
4000 Lancaster, PA Lancaster, PA	1.0528	1.0114	0.9259
4040 Lansing-East Lansing, MI Clinton, MI Eaton, MI Ingham, MI	0.9933	1.0271	0.9934
4080 Laredo, TX Webb, TX	0.7832	0.8348	0.8168
4100 Las Cruces, NM Dona Ana, NM	0.6816	0.7263	0.8658
4120 Las Vegas, NV–AZ Mohave, AZ Clark, NV Nye, NV	1.0189	1.0278	1.0796
4150 Lawrence, KS Douglas, KS	0.9625	0.9352	0.8190
4200 Lawton, OK Comanche, OK	0.6546	0.7951	0.8996
4243 Lewiston-Auburn, ME	0.8717	0.9202	0.9036

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Androscoggin, ME			
4280 Lexington, KY	0.9208	0.7549	0.8866
Bourbon, KY			
Clark, KY			
Fayette, KY			
Jessamine, KY			
Madison, KY			
Scott, KY			
Woodford, KY			
4320 Lima, OH	0.8609	0.9397	0.9320
Allen, OH			
Auglaize, OH			
4360 Lincoln, NE	1.0497	1.0192	0.9626
Lancaster, NE			
4400 Little Rock-North Little Rock, AR	0.9213	0.9210	0.8906
Faulkner, AR			
Lonoke, AR			
Pulaski, AR			
Saline, AR			
4420 Longview-Marshall, TX	0.7978	0.9291	0.8922
Gregg, TX			
Harrison, TX			
Upshur, TX			
4480 Los Angeles-Long Beach, CA	1.0083	1.0129	1.1996
Los Angeles, CA			
4520 Louisville, KY–IN	0.9433	0.9206	0.9350
Clark, IN			
Floyd, IN			
Harrison, IN			
Scott, IN			
Bullitt, KY			
Jefferson, KY			
Oldham, KY			
4600 Lubbock, TX	0.7676	0.7802	0.8838
Lubbock, TX			
4640 Lynchburg, VA	0.8673	0.8209	0.8867
Amherst, VA			
Bedford City, VA			
Bedford, VA			
Campbell, VA			
Lynchburg City, VA			
4680 Macon, GA	0.8420	0.7877	0.8974
Bibb, GA			
Houston, GA			
Jones, GA			
Peach, GA			
Twiggs, GA			
4720 Madison, WI	0.9982	1.0705	1.0271
Dane, WI			
4800 Mansfield, OH	0.8294	0.9051	0.8690
Crawford, OH			
Richland, OH			
4840 Mayaguez, PR	0.0000	0.0000	0.4589
Anasco, PR			
Cabo Rojo, PR			
Hormigueros, PR			
Mayaguez, PR			
Sabana Grande, PR			
San German, PR			
4880 McAllen-Edinburg-Mission, TX	0.8136	0.7935	0.8566
Hidalgo, TX			
4890 Medford-Ashland, OR	0.9732	0.9528	1.0344
Jackson, OR			
4900 Melbourne-Titusville-Palm Bay, FL	1.0452	1.0178	0.9688
Brevard, Fl			
4920 Memphis, TN–AR–MS	0.9554	0.9919	0.8723
Crittenden, AR			
De Soto, MS			
Fayette, TN			
Shelby, TN			
Tipton, TN			
4940 Merced, CA	0.7959	0.9022	0.9646
Merced, CA			
5000 Miami, FL	0.9359	0.9577	1.0059
Dade, FL			
5015 Middlesex-Somerset-Hunterdon, NJ	1.1283	1.2052	1.1075
Hunterdon, NJ			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Middlesex, NJ			
Somerset, NJ			
5080 Milwaukee-Waukesha, WI	1.0373	1.0397	0.9767
Milwaukee, WI			
Ozaukee, WI			
Washington, WI			
Waukesha, WI			
5120 Minneapolis-St Paul, MN–WI	1.2186	1.2375	1.1017
Anoka, MN			
Carver, MN			
Chisago, MN			
Dakota, MN			
Hennepin, MN			
Isanti, MN			
Ramsey, MN			
Scott, MN			
Sherburne, MN			
Washington, MN			
Wright, MN			
Pierce, WI			
St. Croix, WI			
5140 Missoula, MT	0.9197	0.8724	0.9274
Missoula, MT			
5160 Mobile, AL	0.8273	0.9284	0.8163
Baldwin, AL			
Mobile, AL			
5170 Modesto, CA	0.8732	0.9675	1.0396
Stanislaus, CA			
5190 Monmouth-Ocean, NJ	1.1251	1.0979	1.1278
Monmouth, NJ			
Ocean, NJ			
5200 Monroe, LA	0.7793	0.8161	0.8396
Ouachita, LA			
5240 Montgomery, AL	0.7738	0.8229	0.7653
Autauga, AL			
Elmore, AL			
Montgomery, AL			
5280 Muncie, IN	0.9597	0.9550	1.0969
Delaware, IN			
5330 Myrtle Beach, SC	0.9077	0.7922	0.8440
Horry, SC			
5345 Naples, FL	0.9628	1.0437	0.9661
Collier, FL			
5360 Nashville, TN	0.9408	0.9345	0.9490
Cheatham, TN			
Davidson, TN			
Dickson, TN			
Robertson, TN			
Rutherford, TN			
Sumner, TN			
Williamson, TN			
Wilson, TN			
5380 Nassau-Suffolk, NY	1.5592	1.5034	1.3932
Nassau, NY			
Suffolk, NY			
5483 New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2799	1.3446	1.2297
Fairfield, CT			
New Haven, CT			
5523 New London-Norwich, CT	1.2035	1.2438	1.2063
New London, CT			
5560 New Orleans, LA	0.8077	0.8436	0.9295
Jefferson, LA			
Orleans, LA			
Plaquemines, LA			
St. Bernard, LA			
St. Charles, LA			
St. James, LA			
St. John The Baptist, LA			
St. Tammany, LA			
5600 New York, NY	1.5638	1.4983	1.4651
Bronx, NY			
Kings, NY			
New York, NY			
Putnam, NY			
Queens, NY			
Richmond, NY			
Rockland, NY			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Westchester, NY			
5640 Newark, NJ	1.2344	1.1704	1.1837
Essex, NJ			
Morris, NJ			
Sussex, NJ			
Union, NJ			
Warren, NJ			
5660 Newburgh, NY–PA	1.2791	1.2347	1.0847
Orange, NY			
Pike, PA			
5720 Norfolk-Virginia Beach-Newport News, VA–NC	0.8084	0.7828	0.8412
Currituck, NC			
Chesapeake City, VA			
Gloucester, VA			
Hampton City, VA			
Isle of Wight, VA			
James City, VA			
Mathews, VA			
Newport News City, VA			
Norfolk City, VA			
Poquoson City, VA			
Portsmouth City, VA			
Suffolk City, VA			
Virginia Beach City, VA			
Williamsburg City, VA			
York, VA			
5775 Oakland, CA	1.0815	1.0616	1.4983
Alameda, CA			
Contra Costa, CA			
5790 Ocala, FL	0.9967	0.7345	0.9243
Marion, FL			
5800 Odessa-Midland, TX	0.7857	0.8858	0.9205
Ector, TX			
Midland, TX			
5880 Oklahoma City, OK	0.7911	0.7955	0.8822
Canadian, OK			
Cleveland, OK			
Logan, OK			
McClain, OK			
Oklahoma, OK			
Pottawatomie, OK			
5910 Olympia, WA	0.9888	0.9548	1.0677
Thurston, WA			
5920 Omaha, NE–IA	1.0212	1.0731	0.9572
Pottawattamie, IA			
Cass, NE			
Douglas, NE			
Sarpy, NE			
Washington, NE			
5945 Orange County, CA	1.0747	1.0649	1.1467
Orange, CA			
5960 Orlando, FL	0.9445	0.9566	0.9610
Lake, FL			
Orange, FL			
Osceola, FL			
Seminole, FL			
5990 Owensboro, KY	1.0374	0.8987	0.8159
Daviess, KY			
6015 Panama City, FL	0.9224	0.9344	0.9010
Bay, FL			
6020 Parkersburg-Marietta, WV–OH	0.9779	0.9064	0.8274
Washington, OH			
Wood, WV			
6080 Pensacola, FL	0.7929	0.8519	0.8176
Escambia, FL			
Santa Rosa, FL			
6120 Peoria-Pekin, IL	0.8375	0.9017	0.8645
Peoria, IL			
Tazewell, IL			
Woodford, IL			
6160 Philadelphia, PA–NJ	1.1553	1.1460	1.0937
Burlington, NJ			
Camden, NJ			
Gloucester, NJ			
Salem, NJ			
Bucks, PA			
Chester, PA			

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Delaware, PA Montgomery, PA Philadelphia, PA			
6200 Phoenix-Mesa, AZ Maricopa, AZ Pinal, AZ	1.0176	1.0219	0.9669
6240 Pine Bluff, AR Jefferson, AR	0.6727	0.7983	0.7791
6280 Pittsburgh, PA Allegheny, PA Beaver, PA Butler, PA Fayette, PA Washington, PA Westmoreland, PA	1.0937	1.0574	0.9741
6323 Pittsfield, MA Berkshire, MA	1.1357	1.0739	1.0288
6340 Pocatello, ID Bannock, ID	0.7864	0.7717	0.9076
6360 Ponce, PR Guayanilla, PR Juana Diaz, PR Penuelas, PR Ponce, PR Villalba, PR Yauco, PR	0.7238	0.6854	0.5006
6403 Portland, ME Cumberland, ME Sagadahoc, ME York, ME	1.0594	1.0378	0.9748
6440 Portland-Vancouver, OR–WA Clackamas, OR Columbia, OR Multnomah, OR Washington, OR Yamhill, OR Clark, WA	1.0495	1.0048	1.0910
6483 Providence-Warwick-Pawtucket, RI Bristol, RI Kent, RI Newport, RI Providence, RI Washington, RI	1.0486	1.0120	1.0864
6520 Provo-Orem, UT Utah, UT	0.7640	0.9453	1.0029
6560 Pueblo, CO Pueblo, CO	0.8689	0.9305	0.8815
6580 Punta Gorda, FL Charlotte, FL	0.9549	0.9761	0.9613
6600 Racine, WI Racine, WI	1.1701	1.1432	0.9246
6640 Raleigh-Durham-Chapel Hill, NC Chatham, NC Durham, NC Franklin, NC Johnston, NC Orange, NC Wake, NC	1.0767	1.0122	0.9646
6660 Rapid City, SD Pennington, SD	0.7728	0.9584	0.8865
6680 Reading, PA Berks, PA	1.0531	1.1283	0.9152
6690 Redding, CA Shasta, CA	1.1269	1.0330	1.1664
6720 Reno, NV Washoe, NV	1.0926	1.2112	1.0550
6740 Richland-Kennewick-Pasco, WA Benton, WA Franklin, WA	1.0241	1.0334	1.1460
6760 Richmond-Petersburg, VA Charles City County, VA Chesterfield, VA Colonial Heights City, VA Dinwiddie, VA Goochland, VA Hanover, VA Henrico, VA	0.7927	0.8517	0.9617

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Hopewell City, VA			
New Kent, VA			
Petersburg City, VA			
Powhatan, VA			
Prince George, VA			
Richmond City, VA			
6780 Riverside-San Bernardino, CA	1.0127	1.0086	1.1239
Riverside, CA			
San Bernardino, CA			
6800 Roanoke, VA	0.7443	0.8052	0.8750
Botetourt, VA			
Roanoke, VA			
Roanoke City, VA			
Salem City, VA			
6820 Rochester, MN	1.1764	1.1235	1.1315
Olmsted, MN			
6840 Rochester, NY	1.0708	1.0488	0.9182
Genesee, NY			
Livingston, NY			
Monroe, NY			
Ontario, NY			
Orleans, NY			
Wayne, NY			
6880 Rockford, IL	0.8844	0.9617	0.8819
Boone, IL			
Ogle, IL			
Winnebago, IL			
6895 Rocky Mount, NC	0.9221	0.8247	0.8849
Edgecombe, NC			
Nash, NC			
6920 Sacramento, CA	1.0230	1.0580	1.1950
El Dorado, CA			
Placer, CA			
Sacramento, CA			
A6960 Saginaw-Bay City-Midland, MI	0.8510	0.9002	0.9575
Bay, MI			
Midland, MI			
Saginaw, MI			
6980 St. Cloud, MN	0.8480	0.9556	1.0016
Benton, MN			
Stearns, MN			
7000 St. Joseph, MO	1.1074	1.0774	0.9071
Andrews, MO			
Buchanan, MO			
7040 St. Louis, MO–IL	0.8900	0.9056	0.9049
Clinton, IL			
Jersey, IL			
Madison, IL			
Monroe, IL			
St. Clair, IL			
Franklin, MO			
Jefferson, MO			
Lincoln, MO			
St. Charles, MO			
St. Louis, MO			
St. Louis City, MO			
Warren, MO			
Sullivan City, MO			
7080 Salem, OR	0.9308	0.8379	1.0189
Marion, OR			
Polk, OR			
7120 Salinas, CA	1.0856	1.1224	1.4502
Monterey, CA			
7160 Salt Lake City-Ogden, UT	0.9984	0.9405	0.9807
Davis, UT			
Salt Lake, UT			
Weber, UT			
7200 San Angelo, TX	0.8222	0.7841	0.8083
Tom Green, TX			
7240 San Antonio, TX	0.8252	0.8159	0.8580
Bexar, TX			
Comal, TX			
Guadalupe, TX			
Wilson, TX			
7320 San Diego, CA	1.0177	1.0038	1.1784
San Diego, CA			
7360 San Francisco, CA	1.1958	1.1930	1.4156

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Marin, CA			
San Francisco, CA			
San Mateo, CA			
7400 San Jose, CA	1.0787	1.1736	1.3652
Santa Clara, CA			
7440 San Juan-Bayamon, PR	0.5454	0.5070	0.4690
Aguas Buenas, PR			
Barceloneta, PR			
Bayamon, PR			
Canovanas, PR			
Carolina, PR			
Catano, PR			
Ceiba, PR			
Comerio, PR			
Corozal, PR			
Dorado, PR			
Fajardo, PR			
Florida, PR			
Guaynabo, PR			
Humacao, PR			
Juncos, PR			
Los Piedras, PR			
Loiza, PR			
Luguillo, PR			
Manati, PR			
Morovis, PR			
Naguabo, PR			
Naranjito, PR			
Rio Grande, PR			
San Juan, PR			
Toa Alta, PR			
Toa Baja, PR			
Trujillo Alto, PR			
Vega Alta, PR			
Vega Baja, PR			
Yabucoa, PR			
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.0873	0.9472	1.0673
San Luis Obispo, CA			
7480 Santa Barbara-Santa Maria-Lompoc, CA	0.9547	1.0338	1.0597
Santa Barbara, CA			
7485 Santa Cruz-Watsonville, CA	1.1349	0.9398	1.4040
Santa Cruz, CA			
7490 Santa Fe, NM	0.8636	1.3115	1.0537
Los Alamos, NM			
Santa Fe, NM			
7500 Santa Rosa, CA	1.0368	1.1709	1.2646
Sonoma, CA			
7510 Sarasota-Bradenton, FL	1.0006	1.0294	0.9809
Manatee, FL			
Sarasota, FL			
7520 Savannah, GA	0.8804	0.7861	0.9697
Bryan, GA			
Chatham, GA			
Effingham, GA			
7560 Scranton-Wilkes-Barre-Hazleton, PA	1.0313	1.0346	0.8421
Columbia, PA			
Lackawanna, PA			
Luzerne, PA			
Wyoming, PA			
7600 Seattle-Bellevue-Everett, WA	1.1078	1.0440	1.0996
Island, WA			
King, WA			
Snohomish, WA			
7610 Sharon, PA	1.0333	0.9605	0.7928
Mercer, PA			
7620 Sheboygan, WI	1.1775	1.2892	0.8379
Sheboygan, WI			
7640 Sherman-Denison, TX	0.8663	0.8372	0.8694
Grayson, TX			
7680 Shreveport-Bossier City, LA	0.7241	0.6735	0.8750
Bossier, LA			
Caddo, LA			
Webster, LA			
7720 Sioux City, IA–NE	0.9021	0.9063	0.8473
Woodbury, IA			
Dakota, NE			
7760 Sioux Falls, SD	0.8511	0.9286	0.8790

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Lincoln, SD Minnehaha, SD			
7800 South Bend, IN St. Joseph, IN	1.0075	1.0621	1.0000
7840 Spokane, WA Spokane, WA	0.9486	0.9854	1.0513
7880 Springfield, IL Menard, IL Sangamon, IL	0.8276	0.9314	0.8685
7920 Springfield, MO Christian, MO Greene, MO Webster, MO	0.9289	0.9309	0.8488
8003 Springfield, MA Hampden, MA Hampshire, MA	1.2171	1.1537	1.0637
8050 State College, PA Centre, PA	1.0164	0.9558	0.9038
8080 Steubenville-Weirton, OH–WV Jefferson, OH Brooke, WV Hancock, WV	0.9182	0.9057	0.8548
8120 Stockton-Lodi, CA San Joaquin, CA	0.9860	1.0313	1.0629
8140 Sumter, SC Sumter, SC	0.7762	0.8687	0.8271
8160 Syracuse, NY Cayuga, NY Madison, NY Onondaga, NY Oswego, NY	1.0121	1.0499	0.9549
8200 Tacoma, WA Pierce, WA	0.9407	0.9441	1.1564
8240 Tallahassee, FL Gadsden, FL Leon, FL	0.9658	0.9761	0.8545
8280 Tampa-St. Petersburg-Clearwater, FL Hernando, FL Hillsborough, FL Pasco, FL Pinellas, FL	1.0177	1.0025	0.8982
8320 Terre Haute, IN Clay, IN Vermillion, IN Vigo, IN	0.8222	0.8286	0.8304
8360 Texarkana, AR-Texarkana, TX Miller, AR Bowie, TX	0.8290	0.8049	0.8363
8400 Toledo, OH Fulton, OH Lucas, OH Wood, OH	0.9963	0.9904	0.9832
8440 Topeka, KS Shawnee, KS	0.7969	0.8241	0.9117
8480 Trenton, NJ Mercer, NJ	1.1897	1.1835	1.0137
8520 Tucson, AZ Pima, AZ	0.9488	0.9534	0.8794
8560 Tulsa, OK Creek, OK Osage, OK Rogers, OK Tulsa, OK Wagoner, OK	0.8445	0.8104	0.8454
8600 Tuscaloosa, AL Tuscaloosa, AL	0.8490	0.8208	0.8064
8640 Tyler, TX Smith, TX	0.8607	0.8562	0.9404
8680 Utica-Rome, NY Herkimer, NY Oneida, NY	0.9634	0.9279	0.8560
8720 Vallejo-Fairfield-Napa, CA Napa, CA Solano, CA	1.1949	1.1287	1.2847
8735 Ventura, CA Ventura, CA	1.0838	1.0338	1.1030
8750 Victoria, TX	0.7002	0.7270	0.8154

TABLE 7.—WAGE INDEX FOR URBAN AREAS—Continued

Urban Area (Constituent Counties or County Equivalents)	Wage Index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Victoria, TX			
8760 Vineland-Millville-Bridgeton, NJ	1.1806	1.1019	1.0501
Cumberland, NJ			
8780 Visalia-Tulare-Porterville, CA	0.9010	0.9027	0.9551
Tulare, CA			
8800 Waco, TX	0.8453	0.8291	0.8314
McLennan, TX			
8840 Washington, DC–MD–VA–WV	1.0430	1.0368	1.0755
District of Columbia, DC			
Calvert, MD			
Charles, MD			
Frederick, MD			
Montgomery, MD			
Prince Georges, MD			
Alexandria City, VA			
Arlington, VA			
Clarke, VA			
Culpepper, VA			
Fairfax, VA			
Fairfax City, VA			
Falls Church City, VA			
Fauquier, VA			
Fredericksburg City, VA			
King George, VA			
Loudoun, VA			
Manassas City, VA			
Manassas Park City, VA			
Prince William, VA			
Spotsylvania, VA			
Stafford, VA			
Warren, VA			
Berkeley, WV			
Jefferson, WV			
8920 Waterloo-Cedar Falls, IA	0.8201	0.8820	0.8404
Black Hawk, IA			
8940 Wausau, WI	1.1470	1.2648	0.9418
Marathon, WI			
8960 West Palm Beach-Boca Raton, FL	1.0131	0.9912	0.9682
Palm Beach, FL			
9000 Wheeling, OH–WV	0.9131	0.9078	0.7733
Belmont, OH			
Marshall, WV			
Ohio, WV			
9040 Wichita, KS	0.9211	0.9050	0.9544
Butler, KS			
Harvey, KS			
Sedgwick, KS			
9080 Wichita Falls, TX	0.7375	0.7385	0.7668
Archer, TX			
Wichita, TX			
9140 Williamsport, PA	0.9543	1.0264	0.8392
Lycoming, PA			
9160 Wilmington-Newark, DE–MD	1.0931	1.0284	1.1191
New Castle, DE			
Cecil, MD			
9200 Wilmington, NC	0.9507	0.8675	0.9402
New Hanover, NC			
Brunswick, NC			
9260 Yakima, WA	0.9038	0.8770	0.9907
Yakima, WA			
9270 Yolo, CA	1.0452	1.0260	1.0199
Yolo, CA			
9280 York, PA	1.0718	1.0923	0.9264
York, PA			
9320 Youngstown-Warren, OH	0.8731	0.8594	0.9543
Columbiana, OH			
Mahoning, OH			
Trumbull, OH			
9340 Yuba City, CA	1.0615	1.0246	1.0706
Sutter, CA			
Yuba, CA			
9360 Yuma, AZ	0.9209	0.9020	0.9529
Yuma, AZ			

TABLE 8.—WAGE INDEX FOR RURAL AREAS

Rural area	Wage index		
	SNF98	SNF99	HOSP
Col. A	Col. B	Col. C	Col. D
Alabama	0.7724	0.8020	0.7489
Alaska	1.4132	1.3582	1.2392
Arizona	1.0111	0.9175	0.8317
Arkansas	0.6972	0.7278	0.7445
California	0.9685	0.9712	0.9861
Colorado	0.8710	0.9147	0.8968
Connecticut	1.2870	1.0540	1.1715
Delaware	1.0854	0.9338	0.9074
Florida	0.8331	0.8921	0.8919
Georgia	0.7850	0.7985	0.8329
Guam	0.0000	0.0000	0.9611
Hawaii	1.1915	1.2995	1.1059
Idaho	0.8892	0.8320	0.8678
Illinois	0.8296	0.8274	0.8160
Indiana	0.8875	0.9008	0.8602
Iowa	0.7706	0.7834	0.8030
Kansas	0.7562	0.7941	0.7605
Kentucky	0.8237	0.7905	0.7931
Louisiana	0.6699	0.7014	0.7681
Maine	0.8766	0.8908	0.8766
Maryland	0.9015	0.8780	0.8651
Massachusetts	1.1740	1.2039	1.1204
Michigan	0.9505	0.9655	0.8987
Minnesota	1.1396	1.0221	0.8881
Mississippi	0.7412	0.7885	0.7491
Missouri	0.7904	0.7898	0.7698
Montana	0.8996	0.8606	0.8688
Nebraska	0.7977	0.8182	0.8109
Nevada	0.8621	0.9222	0.9232
New Hampshire	1.1065	1.1171	0.9845
New Jersey [1]	.....	.....	.....
New Mexico	0.6834	0.8052	0.8497
New York	1.0081	0.9981	0.8499
North Carolina	0.9255	0.9028	0.8445
North Dakota	0.7649	0.7779	0.7716
Ohio	0.8895	0.8948	0.8670
Oklahoma	0.7481	0.7275	0.7491
Oregon	0.8616	0.8455	1.0132
Pennsylvania	0.9870	0.9443	0.8578
Puerto Rico	0.3897	0.3866	0.4264
Rhode Island [1]	.....	.....	.....
South Carolina	0.7941	0.8367	0.8370
South Dakota	0.7946	0.8373	0.7570
Tennessee	0.8656	0.8415	0.7838
Texas	0.7512	0.7528	0.7502
Utah	0.9492	0.8196	0.9037
Vermont	0.9914	1.0299	0.9274
Virginia	0.8157	0.8601	0.8189
Virgin Islands	0.0000	0.0000	0.6306
Washington	0.9539	0.9475	1.0434
West Virginia	0.8260	0.8668	0.8231
Wisconsin	0.9516	0.9893	0.8880
Wyoming	0.9081	0.8314	0.8817

[1] All counties within the State are classified urban.

We have drawn the following conclusions from these tables and our analysis of the wage data:

A comparison of the wage index based on hospital data with one based on SNF-specific wage data has created many significant variances, not only between the SNF wage index and the hospital wage index, but also between the two SNF wage indexes illustrated in Tables 7 and 8. While we would expect some changes from year to year, and between a wage index based on SNF data and one based on hospital data, we believe that the large quantity of significant variations raises questions as to the reliability of the SNF-specific wage data.

The following illustrates the impact of using the various wage indexes contained in Tables 7 and 8:

- When comparing the FY 1998 SNF-specific wage index to the hospital wage index, we found the number of areas that:

Increased more than 20%—15 (the highest was 44.59%)
Increased between 10–20%—53

Increased between 5–10%—49
Increased between 0–5%—64
Decreased between 0–5%—69
Decreased between 5–10%—56
Decreased between 10–20%—51
Decreased greater than 20%—12 (the largest was 37.55%)

• When comparing the FY 1999 SNF-specific wage index to the hospital wage index, we found the number of areas that:

Increased more than 20%—12 (the largest was 53.86%)
Increased between 10–20%—47
Increased between 5–10%—67
Increased between 0–5%—70
Decreased between 0–5%—56
Decreased between 5–10%—60
Decreased between 10–20%—44
Decreased greater than 20%—13 (the largest was 33.06%)

• When comparing the FY 1998 SNF-specific wage index to the FY 1999 SNF-specific wage index, we found the number of areas that:

Increased more than 20%—9 (the largest was 51.86%)
Increased between 10–20%—25
Increased between 5–10%—52
Increased between 0–5%—102
Decreased between 0–5%—110
Decreased between 5–10%—44
Decreased between 10–20%—22
Decreased greater than 20%—5 (the largest was 33.73%)

The FY 1998 and FY 1999 SNF wage index had 6 areas with no values.

For FY 1998, from a total of 13,587 freestanding providers, we eliminated 2,674 providers because they had a zero value for wages or hours. For hospital-based SNFs, of the 2,185 providers, we eliminated 160 providers for the same reason. For FY 1999, of the 12,491 freestanding providers, we eliminated 2,461 providers because they had a zero value for wages or hours. For hospital-based SNFs, of the 2,034 providers, we eliminated 132 providers for the same reason. In addition, for FY 1998, we eliminated 231 providers that had average hourly wages either below $5.00, or above the 99th percentile ($24.15). For FY 1999, we eliminated 206 providers with average hourly wages either below $5.00, or above the 99th percentile ($24.79).

There are far fewer significant changes between MSAs in the annual hospital wage index. The latest comparison of the year-to-year differences in the hospital wage index (pre-classified, pre-floor) shows only 7 areas with increases of 10 percent or more and 4 with decreases greater than 10 percent. A comparison of the FY 1998 and 1999 SNF-specific wage indexes shows 34 areas that experienced an increase of 10 percent or more and 27 areas with decreases of 10 percent or more.

We believe that any changes to the wage index adjustment under the SNF PPS should support greater precision in Medicare payments; however, as a result of the variations in the SNF-specific wage data and the large number of SNFs that are unable to provide adequate wage and hourly data, we are concerned about the reliability of the data used in establishing a SNF wage index at this time.

We continue to believe that a wage index based on hospital wage data is the best and most appropriate to use in adjusting payments to SNFs, since both hospitals and SNFs compete in the same labor markets. We invite public comment on the SNF-specific wage data; however, for the reasons discussed above we currently plan to use the updated hospital wage data when we publish the final rule. In addition, in accordance with section 315(b) of BIPA 2000, since we currently do not have reliable SNF-specific wage data, we are not proposing at this time to develop or incorporate any type of geographic reclassification system for SNFs.

D. Updates to the Federal Rates

In accordance with section 1888(e)(4)(E) of the Act and section 311 of BIPA 2000, the proposed payment rates listed here reflect an update equal to the SNF market basket minus 0.5 percentage point, which equals 2.4 percent. For each succeeding FY, we will publish the rates in the **Federal Register** before August 1 of the year preceding the affected Federal FY.

E. Relationship of RUG–III Classification System to Existing Skilled Nursing Facility Level-of-Care Criteria

As discussed in § 413.345, we include in each update of the Federal payment rates in the **Federal Register** the designation of those specific RUGs under the classification system that represent the required SNF level of care, as provided in § 409.30. This designation reflects an administrative presumption that beneficiaries who are correctly assigned to one of the upper 26 RUG–III groups in the initial 5-day, Medicare-required assessment are automatically classified as meeting the SNF level of care definition up to that point.

Those beneficiaries assigned to any of the lower 18 groups are not automatically classified as either meeting or not meeting the definition, but instead receive an individual level of care determination using the existing administrative criteria. This presumption recognizes the strong likelihood that beneficiaries assigned to one of the upper 26 groups during the immediate post-hospital period require a covered level of care, which would be significantly less likely for those beneficiaries assigned to one of the lower 18 groups.

We propose to continue the existing designation of the upper 26 RUG–III groups for purposes of this administrative presumption, consisting of the following RUG–III classifications: all groups within the Ultra High Rehabilitation category; all groups within the Very High Rehabilitation category; all groups within the High Rehabilitation category; all groups within the Medium Rehabilitation category; all groups within the Low Rehabilitation category; all groups within the Extensive Services category; all groups within the Special Care category; and, all groups within the Clinically Complex category.

F. Three-Year Transition Period

As noted previously, the rates that we now propose are for the fourth year of the SNF PPS. As a result, the PPS is no longer operating under the initial three-year transition period from facility-specific to Federal rates and, therefore, now equals 100 percent of the adjusted Federal per diem rate.

G. Example of Computation of Adjusted PPS Rates and SNF Payment

Using the XYZ SNF described in Table 9A, the following shows the adjustments made to the Federal per diem rate to compute the provider's actual per diem PPS payment. XYZ's 12-month cost reporting period begins October 1, 2001. Table 9B displays the 44 RUG–III categories and their respective add-ons, as provided in BBRA 1999 and BIPA 2000.

TABLE 9.A.—SNF XYZ FROM ABOVE IS LOCATED IN STATE COLLEGE, PA WITH A WAGE INDEX OF 0.9038

RUG group	Labor portion	Wage index	Adjusted labor	Nonlabor portion	Adjusted rate	Percent adjustment	Medicare days	Payment
RVC	$257.54	0.9038	$232.76	$84.14	$316.90	$350.81	50	$17,541
SSC	171.76	0.9038	155.24	56.12	211.36	[3] 262.09	25	6,552
IA2	113.56	0.9038	102.64	37.10	139.74	[4] 145.33	25	3,633
Total							100	27,726

[1] From Table 5.
[2] Reflects a 10.7 percent adjustment (the 4 percent adjustment from section 101(d) of BBRA 1999 and the 6.7 percent adjustment from section 314 of BIPA 2000).
[3] Reflects a 24 percent adjustment (the 4 percent and 20 percent adjustments from sections 101(a) and (d) of BBRA 1999).
[4] Reflects the 4 percent adjustment from section 101(d) of BBRA 1999.

TABLE 9.B.—BBRA 1999 & BIPA 2000 ADD-ONS, BY RUG–III CATEGORY

RUG–III category	4% [1]	10.7% [2]	24% [3]
RUC		X	
RUB		X	
RUA		X	
RVC		X	
RVB		X	
RVA		X	
RHC		X	
RHB		X	
RHA		X	
RMC		X	
RMB		X	
RMA		X	
RLB		X	
RLA		X	
SE3			X
SE2			X
SE1			X
SSC			X
SSB			X
SSA			X
CC2			X
CC1			X
CB2			X
CB1			X
CA2			X
CA1			X
IB2	X		
IB1	X		
IA2	X		
IA1	X		
BB2	X		
BB1	X		
BA2	X		
BA1	X		
PE2	X		
PE1	X		
PD2	X		
PD1	X		
PC2	X		
PC1	X		
PB2	X		
PB1	X		
PA2	X		
PA1	X		

[1] From BBRA 1999.
[2] Includes the 4% increase from BBRA 1999 and the 6.7% increase from BIPA 2000.
[3] Includes the 4% and 20% increases from BBRA 1999.

For rates addressed in this proposed rule, we are using wage index values that are based on hospital wage data from cost reporting periods beginning in FY 1996, the same wage data as used to compute the FY 2001 wage index values for the SNF PPS. We will incorporate updated wage data in the final rule for the FY 2002 SNF PPS update. XYZ's total PPS payment will equal $27,726.

III. The Skilled Nursing Facility Market Basket Index

A. Background

Section 1888(e)(5)(A) of the Act requires the Secretary to establish a market basket index that reflects changes over time in the prices of an appropriate mix of goods and services included in the SNF PPS. Effective for cost reporting periods beginning on or after July 1, 1998, we revised and rebased our 1977 routine costs input price index and adopted a total expenses SNF input price index using data from 1992 as the base year.

The term ''market basket'' technically describes the mix of goods and services needed to produce SNF care, and is also commonly used to denote the input price index that includes both weights (mix of goods and services) and price factors. The term ''market basket'' used in this proposed rule refers to the SNF input price index.

The 1992-based SNF market basket represents routine costs, costs of ancillary services and capital-related costs. The percentage change in the market basket reflects the average change in the price of a fixed set of goods and services purchased by SNFs to furnish all services. For further background information, see the May 12, 1998 **Federal Register** (63 FR 26289).

For purposes of SNF PPS, the SNF market basket is a fixed-weight (Laspeyres type) price index. (A Laspeyres type index compares the cost of purchasing a specified group of commodities at current prices to the cost of purchasing that same group in a selected base period.) The SNF market basket is constructed in three steps. First, a base period is selected and total base period expenditure shares are estimated for mutually exclusive and exhaustive spending categories. Total costs for routine services, ancillary services, and capital are used. These proportions are called ''cost'' or ''expenditure weights''. The second step is to match each expenditure category to a price/wage variable, called a price proxy. These price proxy variables are drawn from publicly available statistical series published on a consistent schedule, preferably at least quarterly. In the final step, the price level for each spending category is multiplied by the expenditure weight for that category. The sum of these products (that is, weights multiplied by proxy index levels) for all cost categories yields the composite index level in the market basket for a given quarter or year. Repeating the third step for other quarters and years produces a time series of market basket index levels, from which rates of growth can be calculated.

The market basket is described as a fixed-weight index because it answers the question of how much more or less it would cost, at a later time, to purchase the same mix of goods and services that was purchased in the base period. The effects on total expenditures resulting from changes in the quantity or mix of goods and services purchased subsequent or prior to the base period are, by design, not considered.

As discussed in the May 12, 1998 **Federal Register** (63 FR 26252), to implement section 1888(e)(5)(A) of the Act, we have revised and rebased the market basket so the cost weights and price proxies reflected the mix of goods and services that SNFs purchase for all costs (routine, ancillary, and capital-related) encompassed by SNF PPS in fiscal year 1992.

B. Rebasing and Revising the Skilled Nursing Facility Market Basket

The terms ''rebasing'' and ''revising'', while often used interchangeably, actually denote different activities. Rebasing means shifting the base year for the structure of costs of the input

price index (for example, for this proposed rule, we would shift the base year cost structure from fiscal year 1992 to fiscal year 1997). Revising means changing data sources, cost categories, and/or price proxies used in the input price index.

We are proposing to rebase and revise the SNF market basket to reflect 1997 total cost data (routine, ancillary, and capital-related). Fiscal year 1997 was selected as the new base year because 1997 is the most recent year for which relatively complete data are available. These data include settled 1997 Medicare Cost Reports as well as 1997 data from two U.S. Department of Commerce surveys: the Bureau of the Census' Business Expenditures Survey, and the Bureau of Economic Analysis' Annual Input-Output tables. Preliminary analysis of 1998 data from Medicare Cost Reports showed little change in cost shares from those in the 1997 Medicare Cost Reports.

In developing the proposed market basket, we reviewed SNF expenditure data from Medicare Cost Reports for FY 1997 for each freestanding SNF that had Medicare expenses. FY 1997 Cost Reports are those with cost reporting periods beginning after September 30, 1996 and before October 1, 1997. We maintained our policy of using data from freestanding SNFs because they reflect the actual cost structure faced by the SNF itself. By contrast, expense data for a hospital-based SNF is influenced by the allocation of overhead over the entire institution.

Data on SNF expenditures for six major expense categories (wages and salaries, employee benefits, contract labor, pharmaceuticals, capital-related, and a residual ''all other'') were edited and tabulated. Using these data, we then determined the proportion of total costs that each category represented. The six major categories for the revised and rebased cost categories and weights derived from SNF Medicare Cost Reports are summarized in Table 10.A.

TABLE 10.A.—1992 AND PROPOSED 1997 SKILLED NURSING FACILITY MAJOR COST CATEGORIES AND WEIGHTS FROM MEDICARE COST REPORTS

Cost categories	1992-based skilled nursing facility weights (percent)	Proposed 1997-based skilled nursing facility weights (percent)
Wages and Salaries	47.805	46.889
Employee Benefits	10.023	9.631
Contract Labor	12.852	6.478
Pharmaceuticals	2.531	3.006
Capital-related Costs	9.778	9.877
All Other Costs	17.012	24.119
Total Costs	100.000	100.000

We fully discuss the methodology for developing these weights in the Appendix. The main methodological difference between the 1992-based SNF market basket and the proposed 1997-based market basket is in the calculation of the contract labor weight. For the 1992-based market basket, we estimated this share using non-salary costs for therapy cost centers. For the proposed 1997-based index, we used the contract labor amounts for a subset of edited reports from Worksheet S–3 in the Medicare Cost Reports. We believe this new methodology provides a more accurate reflection of the share of total costs that are attributable to contract labor. The data from this worksheet were not available in the 1992 Medicare Cost Reports.

Relative weights within the six major categories were derived using relative cost shares from the Bureau of the Census' 1997 Business Expenditures Survey (BES), 1997 Medicare Cost Reports, and the Bureau of Economic Analysis' (BEA) 1997 Annual Input-Output tables. They were used to disaggregate and allocate costs within the six major categories determined from the 1997 SNF Medicare Cost Reports. The BEA Input-Output database is benchmarked at 5-year intervals and updated annually between benchmarks. We are using the annual update for 1997. The BES is updated every five years.

The capital-related portion of the proposed rebased and revised SNF PPS market basket employs the same overall methodology used to develop the capital-related portion of the 1992-based SNF market basket, described in the May 12, 1998 **Federal Register** (63 FR 26289). It is also the same methodology used for the inpatient hospital PPS capital input price index described in the **Federal Register** May 31, 1996 (61 FR 27466) and August 30, 1996 (61 FR 46196). The strength of this methodology is that it reflects the vintage nature of capital, which represents the acquisition and use of capital over time.

Our work resulted in 21 separate categories for the proposed rebased and revised SNF market basket. The 1992-based total cost SNF market basket also had 21 separate cost categories. Detailed descriptions of each cost category and respective price proxy in the proposed 1997-based SNF market basket are provided in the Appendix to this proposed rule.

As in the 1992-based SNF market basket, the proposed 1997-based SNF market basket does not include a separate cost category for professional liability insurance. Our analysis of the BEA 1997 Annual Input-Output survey indicated that the general category for insurance carriers (which includes professional liability insurance as a subset) was, at just 0.2 percent, a small share of the total costs in 1997. It has been our policy in the past not to provide detailed breakouts of cost categories unless they represent a significant portion of the providers' costs. We also reviewed data available on professional liability insurance from Worksheet S–2 of the SNF Medicare Cost Reports, but found that nearly all SNFs did not report data for malpractice premiums, paid losses, or self-insurance in 1997.

Professional liability insurance is included with other insurance paid to carriers in the all other labor-intensive services cost category. We are soliciting comments on possible data sources for professional liability insurance costs for SNFs. Recent indications are that professional liability insurance costs for SNFs are rising quickly. We are looking both for information that would be

available for a cost weight as well as for a time-series of professional liability premiums for a constant level of coverage, similar to the data we currently collect for hospitals and physicians from a small sample of insurance carriers.

After the 21 cost weights for the proposed revised and rebased SNF market basket were developed, we selected the most appropriate wage and price proxies currently available to monitor the rate of change for each expenditure category. With three exceptions (all for the capital-related expenses cost category), the wage and price proxies are based on Bureau of Labor Statistics (BLS) data and are grouped into one of the following BLS categories:

• *Employment Cost Indexes.* Employment Cost Indexes (ECIs) measure the rate of change in employment wage rates and employer costs for employee benefits per hour worked. These indexes are fixed-weight indexes and strictly measure the change in wage rates and employee benefits per hour. They are not affected by shifts in occupation or industry mix. ECIs are superior to Average Hourly Earnings (AHEs) as price proxies for input price indexes for two reasons: (1) They measure pure price change, and (2) they are available by both occupational group and by industry.

• *Producer Price Indexes.* Producer Price Indexes (PPIs) measure price changes for goods sold in other than retail markets. PPIs were used when the purchases of goods or services were made at the wholesale level.

• *Consumer Price Indexes.* Consumer Price Indexes (CPIs) measure change in the prices of final goods and services bought by consumers. CPIs were only used when the purchases were similar to those of retail consumers rather than purchases at the wholesale level, or if no appropriate PPI was available.

The contract labor weight of 6.478 was reallocated to (1) wages and salaries, and (2) employee benefits, so that the same price proxies that we propose to use for direct labor costs are applied to contract costs. While we understand that the level of unit labor costs for contract labor can differ from the unit labor costs of a SNF employee, we feel that the rate at which these labor costs change should be similar. That is, unit contract labor costs should not grow any more or less rapidly than SNF employee labor costs. The rebased and revised cost categories, weights, and price proxies for the proposed 1997-based SNF market basket are listed in Table 10.B.

TABLE 10.B.—PROPOSED 1997-BASED SNF MARKET BASKET COST CATEGORIES, WEIGHTS, AND PRICE PROXIES

Cost category	1997-based skilled nursing facility market basket weight	Price proxy
Operating Expenses	90.123	
Compensation	62.998	
Wages and Salaries	52.263	ECI for Wages and Salaries for Private Nursing Homes.
Employee benefits	10.734	ECI for Benefits for Private Nursing Homes.
Nonmedical professional fees	2.634	ECI for Compensation for Private Professional, Technical and Specialty workers.
Utilities	2.368	
Electricity	1.420	PPI for Commercial Electric Power.
Fuels, nonhighway	0.426	PPI for Commercial Natural Gas.
Water and sewerage	0.522	CPI–U for Water and Sewarge.
Other Expenses	22.123	
Other Products	13.522	
Pharmaceuticals	3.006	PPI for Prescription Drugs.
Food	4.136	
Food, wholesale purchase	3.198	PPI for Processed Foods.
Food, retail purchase	0.937	CPI–U for Food Away From Home.
Chemicals	0.891	PPI for Industrial Chemicals.
Rubber and plastics	1.611	PPI for Rubber and Plastic Products.
Paper products	1.289	PPI for Converted Paper and Paperboard.
Miscellaneous products	2.589	PPI for Finished Goods less Food and Energy.
Other Services	8.602	
Telephone Services	0.448	CPI–U for Telephone Services.
Labor-intensive Services	4.094	ECI for Compensation for Private Service Occupations.
Non labor-intensive services	4.059	CPI–U for All Items.
Capital-related Expenses	9.877	
Total Depreciation	5.266	
Building & Fixed Equipment	3.609	Boeckh Institutional Construction Index (vintage-weighted over 23 years).
Movable Equipment	1.657	PPI for Machinery & Equipment (vintage-weighted over 10 years).
Total Interest	3.852	
Government & Nonprofit SNFs	1.890	Average Yield Municipal Bonds (Bond Buyer Index-20 bonds) (vintage-weighted over 22 years).
For-Profit SNFs	1.962	Average Yield Moody's AAA Bonds (vintage-weighted over 22 years).
Other Capital-related Expenses	0.760	CPI–U for Residential Rent.
0Total	*100.000	

*Total may not equal 100 due to rounding

In the proposed 1997-based SNF market basket, the labor-related share for FY 1997 is 73.588 percent, while the non-labor-related share is 26.412 percent. The labor-related share reflects the proportion of the average SNF's costs that vary with local area wages. This share includes wages and salaries, employee benefits, professional fees, labor-intensive services, and a 39.1 percent share of capital-related expenses, as shown in Table 10.C. By comparison, the labor-related share of the 1992-based SNF market basket was 75.888 percent. The labor-related share of the market basket is the sum of the weights for those cost categories that are influenced by the local labor market. The labor-related share is calculated from the base year, which for the proposed SNF market basket is FY 1997.

The labor-related share for capital-related expenses was estimated using a statistical analysis of individual SNF Medicare Cost Reports for 1997, similar to the analysis done on the 1992 SNF Medicare Cost Reports and explained in the May 12, 1998 **Federal Register** (63 FR 26289). The statistical analysis was necessary because the proportion of capital-related expenses related to local area wage costs cannot be directly determined from the SNF capital-related portion of the market basket. We used regression analysis with total costs per day in SNFs as the dependent variable and relevant explanatory variables for size, complexity, efficiency, age of capital, and local wage variation. To account for these factors, we used number of beds, case-mix indexes, occupancy rate, ownership, age of assets, length of stay, FTEs per bed, and wage index values based on the hospital wage index (wages and employee benefits) as independent variables. Our regression analysis indicated that the coefficient on the area wage index was 73.588, which represents the proportion of total costs that vary with local labor markets, holding constant other factors. From the operating portion of the market basket, we can specifically identify cost categories that reflect local labor markets and include them in the labor-related share. These cost categories equal 69.727, and reflect approximately 77 percent of operating costs. Thus, the labor-related share for capital-related costs is 3.861 (73.588 minus 69.727), and reflects approximately 39 percent of capital-related costs.

Capital-related expenses are determined in some proportion by local area labor costs (such as construction worker wages and building materials costs) that are reflected in the price of the capital asset. However, many other inputs that determine capital costs are not related to local area wage costs, such as equipment prices and interest rates. Thus, it is appropriate that capital-related expenses would vary less with local wages than would operating expenses for SNFs. Therefore, we are proposing to use this analysis in determining the labor-related share for SNF PPS.

All price proxies for the proposed revised and rebased SNF market basket are listed in Table 10.B and summarized in the Appendix to this proposed rule. A comparison of the yearly historical percent changes from FY 1995 through FY 2000 for the current 1992-based market basket and the proposed 1997-based market basket is shown in Table 10.D.

TABLE 10.C.—1992 AND PROPOSED 1997-BASED LABOR-RELATED SHARE

Cost category	1992-based skilled nursing facility market basket weight	Proposed 1997-based skilled nursing facility market basket weight
Wages and Salaries	54.262	52.263
Employee Benefits	12.797	10.734
Nonmedical Professional Fees	1.916	2.634
Labor-intensive Services	3.686	4.094
Capital-related	3.227	3.861
Total	75.888	73.588

TABLE 10.D.—COMPARISON OF THE 1992-BASED SKILLED NURSING FACILITY MARKET BASKET AND THE PROPOSED 1997-BASED SKILLED NURSING FACILITY MARKET BASKET, PERCENT CHANGES, 1995–2000

Fiscal years beginning October 1	1992-based skilled nursing facitlity market basket	Proposed 1997-based skilled nursing facility market basket
Historical:		
October 1994, FY 1995	2.9	3.0
October 1995, FY 1996	2.7	2.7
October 1996, FY 1997	2.4	2.4
October 1997, FY 1998	2.8	2.8
October 1998, FY 1999	3.1	3.0
October 1999, FY 2000	4.1	4.0
Historical average 1995–2000:	3.0	3.0

Released by HCFA, OACT, National Health Statistics Group.

The historical average rate of growth for 1995 through 2000 for the proposed SNF 1997-based market basket is similar to that of the 1992-based market basket. The proposed 1997-based SNF market basket provides a more current measure of the annual price increases for total care than the 1992-based SNF market basket because the cost weights reflect the structure of costs for the most recent year for which there are relatively complete data. The forecasted rates of

growth for FY 2002 for the proposed 1997-based and current 1992-based SNF market basket are shown in Table 10.E.

TABLE 10.E.—COMPARISON OF FORECASTED CHANGE FOR THE 1992-BASED SKILLED NURSING FACILITY MARKET BASKET, AND THE PROPOSED 1997-BASED SKILLED NURSING FACILITY MARKET BASKET PERCENT CHANGE FOR FY 2002

Fiscal Year beginning October 1	1992-based skilled nursing facility market basket	1997-based skilled nursing facility market basket
October 2001, FY 2002	3.0	2.9

Source: Standard & Poor's DRI HCC, 1st QTR, 2001; @ USMARCRO/MODTREND@CISSIM/TRENDLONG0201. Released by HCFA, OACT, National Health Statistics Group.

IV. Update Framework

A. The Need for an Update Framework

Medicare payments to SNFs are based on a predetermined national payment amount per day. Annual updates to these payments are required by section 1888(e) of the Act. These updates are usually based on the increase in the SNF market basket. For FY 2002, the update is set at market basket minus 0.5 percent. Our goal is to develop a method for analyzing and comparing expected trends in the underlying cost per day to use in establishing these updates.

The SNF market basket, or input price index, developed by HCFA's Office of the Actuary (OACT) is just one component in the SNF cost per day amount. It captures only the pure price change of inputs (labor, materials, and capital) used by the SNF to produce a constant quantity and quality of care. Other factors also contribute to the change in costs per day, which include changes in case-mix, intensity, and productivity.

Under the inpatient hospital PPS, HCFA and MedPAC use an update framework to account for these other factors and to make annual recommendations to the Congress concerning the magnitude of the update. We are currently examining these factors and exploring ways that they could be incorporated into an update framework for the SNF PPS. We are also examining some additional conceptual and data issues that must be considered when the framework is constructed and applied.

We are not proposing to apply an update framework in a recommendation to the Congress at this time. We are actively pursing development efforts aimed at producing an analytical framework which, by informing policy makers concerning the magnitude of annual updates, would support the continued appropriateness and relevance of the payment rates for services provided to beneficiaries in SNFs. To this end, we are requesting comments concerning the conceptual approach we have outlined in this proposed rule, including the utility and feasibility of this approach for SNFs. We are specifically interested in comments concerning whether certain factors should be accounted for in the framework, and suggestions concerning potential data sources and analysis to support the model. As with the existing methodology, the features of a SNF-specific update framework would need to be based on a sound policy and methodology.

B. Factors Inherent in SNF Payments per Day

In order to understand the factors that determine SNF costs per day, it is first necessary to understand the factors that determine SNF payments per day. Payments per day under SNF PPS are based on the cost and an implicit normal profit margin to the SNF in providing an efficient level of care. We have developed a methodology to identify a mutually exclusive and exhaustive set of factors included in SNF payments per day. The discussion here details a set of equations to identify these factors.

In its simplest form, the average payment per day to a SNF can be separated into a cost term and a profit term as shown in equation (1):

$$(1) \qquad \frac{\text{Payments}}{\text{Days}} = \frac{\text{Costs}}{\text{Days}} + \frac{\text{Profits}}{\text{Days}}$$

This equation can be made multiplicative by converting profit per day into a profit rate as shown in equation (2):

$$(2) \qquad \frac{\text{Payments}}{\text{Days}} = \frac{\text{Costs}}{\text{Days}} * \frac{\text{Payments}}{\text{Costs}}$$

An output price term can be introduced into the equation by multiplying and dividing through by input prices and productivity. As shown in equation (3), the term inside the brackets represents the output price, since an output price reflects the input price and profit margin adjusted for productivity:

$$(3) \qquad \frac{\text{Payments}}{\text{Days}} = \frac{\text{Costs}}{\text{Days}} * \left(\frac{\text{Payments}}{\text{Costs}} * \frac{\text{Input Prices}}{\text{Productivity}} \right) * \frac{\text{Productivity}}{\text{Input Prices}}$$

The cost per day term can be further separated by accounting for real case-mix. Under SNF PPS, Resource Utilization Groups (RUGs) are used to classify patients. Based on accurate RUG classification data, average real case-mix per day can be incorporated, as shown in equation (4):

$$(4) \qquad \frac{\text{Payments}}{\text{Days}} = \frac{\text{Costs/Days}}{\text{Real Case Mix/Days}} * \frac{\text{Real Case Mix}}{\text{Days}} * \left(\frac{\text{Payments}}{\text{Costs}} * \frac{\text{Input Prices}}{\text{Productivity}} \right) * \frac{\text{Productivity}}{\text{Input Prices}}$$

The term ''real'' is imperative here because only true case-mix should be measured, not case-mix caused by improper coding behavior. By rearranging the terms in equation (4), a set of mutually exclusive and exhaustive factors such as those shown in equation (5) can be identified:

$$(5)\qquad \frac{\text{Payments}}{\text{Days}} = \left(\frac{\frac{\text{Costs}}{\text{Days}}}{\text{Input Prices} * \frac{\text{Real Case Mix}}{\text{Days}}} * \text{Productivity} \right) * \frac{\text{Real Case Mix}}{\text{Days}} * \frac{1}{\text{Productivity}} * \text{Input Prices} * \frac{\text{Payments}}{\text{Costs}}$$

The term of the equation in brackets can be analyzed in two steps. First, excluding the productivity term from the equation results in case-mix adjusted real cost per day, which is input intensity per day. Second, multiplying input intensity by productivity results in case-mix adjusted real payment per day, or output intensity per day. The rationale behind this step is explained in detail in the next section.

The result of this exercise is that SNF payment per day can be determined from the following factors:

$$(6)\qquad \text{Payment Per Day} = \frac{\left(\begin{array}{c}\text{Case-Mix-Constant} \\ \text{Real Output Intensity} \\ \text{Per Day}\end{array} \right) * \left(\begin{array}{c}\text{Real Case Mix} \\ \text{Per Day}\end{array} \right) * (\text{Input Prices}) * (\text{Profit Margins})}{\text{Productivity}}$$

Thus, it holds that the change in SNF payment per day is a function of the change in these factors. In order to determine an annual update that most accurately reflects the underlying cost to the SNF of efficiently providing care, the four factors related to cost must be accounted for when an update framework is developed. A brief discussion of each factor, including specific conceptual and data issues, is provided in the next section.

C. Defining Each Factor Inherent in SNF Costs per Day

Each cost factor from equation (6) above is discussed here in detail. Because this is a basic conceptual discussion, it is likely that more detailed issues may be relevant that are not explored here.

1. Input Prices

Input prices are the pure prices of inputs used by the SNF in providing services. When we refer to inputs we are referring to costs, which have both a price and a quantity component. The price is an input price, and the quantity component reflects real inputs, or real costs. Similarly, when we refer to outputs, we are referring to payments, which also have both a price and a quantity component. The price component is the transaction output price, and the quantity component is the real output, or real payment. The real inputs include labor, capital, and materials, such as drugs. By definition, an input price reflects prices that SNFs encounter in purchasing these inputs, whereas an output price reflects the prices that buyers encounter in purchasing SNF services. We currently can measure input prices using the SNF market basket.

2. Productivity

Productivity measures the efficiency of the SNF in producing outputs. It is the amount of real outputs, or real payments, that can be produced from a given amount of real inputs, or real costs. For SNFs, these inputs are in the form of both labor and capital; thus, they represent multi-factor productivity, as not just labor productivity is reflected. The following set of equations shows how multi-factor productivity can be measured in terms of available data, such as payments, costs, and input prices:

$$\begin{aligned}\text{Productivity} &= \frac{\text{Real Payments}}{\text{Real Costs}} \\ &= \frac{(\text{Payments/Output Price})}{(\text{Costs/Input Price})} \\ &= \frac{\text{Payments}}{\text{Costs}} * \frac{\text{Input Price}}{\text{Output Price}}\end{aligned}$$

Rearranging the terms, this multi-factor productivity equation was used as the basis for incorporating an output price term in equation (3) above. This equation is the basis for understanding the relationship between input prices, output prices, profit margins, and productivity.

Equation (6) shows that productivity is divided through the equation, offsetting other factors. The theory behind this offset is that if an efficient SNF in a competitive market can produce more output with the same amount of inputs, the full increase in input costs does not have to be passed on by the provider to maintain a normal profit margin.

3. Real Case-Mix per Day

Real case-mix per day is the average overall mix of care provided by the SNF, as measured using the RUG classification system. Over time, a measure of real case-mix will change as care is given in more or less complex RUGs. Changes in the level of care within a RUG classification group would not be reflected in a case-mix measure based on RUGs, but instead should be captured in the intensity factor of equation (6).

The important distinction here is the difference between real and nominal case-mix. SNFs submit claims using the RUG classification system. The case-mix reflected by the claims is considered ''nominal''. However, the reported classification can reflect the true level of care provided or improper coding behavior. An example of improper coding behavior would be the upcoding, or case-mix ''creep,'' that took place when the hospital PPS was implemented. Any change in case-mix that is not associated with the actual level of care or a true change in the level of care provided must be excluded in order to determine real case-mix. Section 1888(e)(4)(F) of the Act provides us with the statutory authority to make adjustments to the unadjusted Federal per diem rates for changes caused by case-mix creep.

4. Case-Mix-Constant Real Output Intensity per Day

Intensity is the true underlying nature of the product or service and can take the form of output and/or input intensity. In the case of SNFs, output intensity per day is associated with real payment per day, while input intensity per day is associated with real cost per day. For example, input intensity would be associated with a therapist's hours when providing treatment, whereas output intensity would be associated with the amount of treatments a therapist provides. The underlying nature of SNF services is determined by such factors as technological capabilities, increased utilization of inputs (such as labor or drugs), site of care, and practice patterns. Because these factors can be difficult to measure, intensity per day is usually calculated as a residual after the other factors from equation (6) have been accounted for.

Accounting for output intensity associated with an efficient SNF can be more accurately analyzed using a SNF's costs rather than its payments. This analysis would also provide an alternative to developing or using a transaction output price index, which has been difficult for the Bureau of Labor Statistics (BLS) to measure for SNFs. The following series of equations shows how to use the definition of an output price as defined earlier to convert the equation for output intensity per day to reflect costs instead of payments, as used in equation (6):

$$\text{Case-Mix-Constant Real Output Intensity Per Day} = \frac{[\text{Payments/Days}]}{\text{Output Prices} * \text{Real Case Mix/Days}}$$

$$= \frac{[\text{Payments/Days}]}{\left(\frac{\text{Payments}}{\text{Costs}} * \frac{\text{Input Prices}}{\text{Productivity}}\right) * \text{Real Case Mix/Days}}$$

$$= \frac{\text{Payments/Days} * \text{Costs}}{\text{Payments} * \frac{\text{Input Prices}}{\text{Productivity}} * \text{Real Case Mix/Days}}$$

$$= \frac{\text{Payments} * [\text{Costs/Days}]}{\text{Payments} * \frac{\text{Input Prices}}{\text{Productivity}} * \text{Real Case Mix/Days}}$$

$$= \frac{[\text{Costs/Days}]}{\frac{\text{Input Prices}}{\text{Productivity}} * \text{Real Case Mix/Days}}$$

$$= \frac{[\text{Costs/Days}]}{\text{Input Prices} * \text{Real Case Mix/Days}} * \text{Productivity}$$

The last equation is identical to the term in brackets in equation (5), case-mix-constant real input intensity per day multiplied by productivity. Thus, output intensity per day can be defined in such a way that cost data from the SNF are utilized. This equation can be broken down even further to account for different types of input intensity per day. We discuss this matter more fully in the next section.

D. Applying the Factors That Affect SNF Costs per Day in an Update Framework

As discussed earlier, payments per day under SNF PPS must be updated each year. Currently, the updates are specified by legislation as the percent change in the SNF market basket for FY 2001, the percent change in the SNF market basket minus 0.5 percentage points for FY 2002 and FY 2003, and the percent change in the SNF market basket thereafter. However, it is important to understand the underlying trends in SNF costs per day for an efficient provider, especially should the change in these costs deviate from the legislated updates. The development of an update framework with a sound conceptual basis will provide this capability.

Earlier, factors inherent in SNF costs per day were identified. Changes in these factors determine the change in SNF costs per day. Fitting these factors into a framework would allow us to recommend updates each year that appropriately reflect changes in underlying costs for efficient SNFs. Accounting for each of these factors from equation (6) under SNF PPS is discussed below:

- Change in case-mix constant real output intensity per day would be accounted for in the update framework, reflecting the factors that affect not only case-mix constant real input intensity per day, but also productivity, which is determined separately. Factors that can cause changes in case-mix constant real input intensity per day include, but are not limited to, changes in site of service, changes in within-RUG case-mix, changes in practice patterns, changes in the use of inputs, and changes in technology available.
- As discussed earlier, changes in nominal case-mix are automatically included in the payment to the SNF. However, the law gives us the authority to make adjustments for case-mix change due to improper coding behavior. Therefore, the update framework should include an adjustment to convert changes in nominal case-mix per day to changes in real case-mix per day.
- Change in multi-factor productivity would be accounted for in the update framework. The availability of historical data on input prices, payments, and costs are useful in the analysis of this factor. MedPAC sets this factor as a target under hospital PPS.
- Changes in input prices for labor, material, and capital would be accounted for in the update framework. Our Office of the Actuary currently has an input price index, or market basket, for SNF services. This is the market basket referred to in the legislated updates. In an update framework, a

forecast error adjustment has typically been included, to reflect that the updates are set prospectively and some degree of forecast error is inevitable. In the case of the inpatient hospital PPS, this adjustment is made on a two-year lag and only if the error exceeds a defined threshold (0.25 percentage points).

E. Current HCFA Inpatient Hospital PPS and Illustrative SNF PPS Payment Update Frameworks

Table 11 shows the payment update framework for the current inpatient hospital PPS and an illustrative update framework for the SNF PPS. Some of the factors in the inpatient hospital PPS framework are computed using the Medicare Cost Report data, while others are determined based on policy considerations. The details of calculating each factor for the inpatient hospital PPS framework can be found in the August 1, 2000 **Federal Register** (65 FR 47054) final rule that set forth updates to the payment rates used under the inpatient PPS. This design for a SNF update framework is for illustrative purposes only, as much more work needs to be done to determine the appropriate level of detail for each factor and the manner in which the factors would be developed through policy. The numbers provided for the hospital update are only intended to serve as examples of prior updates recommended for the hospital PPS.

MedPAC supports the use of this type of framework for updating payments and applies a similar framework when it proposes updates to hospital payments in its annual recommendation to Congress. The appropriateness of this framework for updating inpatient hospital payments was discussed in the Health Care Financing Review, Winter 1992, in an article entitled, ''Are PPS Payments Adequate? Issues for Updating and Assessing Rates.'' A similar framework would be useful for analyzing updates to SNF payments.

TABLE 11.—CURRENT HCFA HOSPITAL PPS AND ILLUSTRATIVE SNF PPS PAYMENT UPDATE FRAMEWORKS

HCFA hospital PPS update	FY 2001 calculated hospital update percent change	Illustrative SNF PPS update
Percent Change in:		
HCFA PPS Hospital Market Basket	3.4	HCFA SNF Market Basket.
Forecast Error	0.0	Forecast Error.
Productivity	−0.5 to −0.4	Productivity.
Output Intensity	0.0 to −0.6	Output Intensity:
Science and Technology		Science and Technology
Practice Patterns.		
Real within-DRG Change		Real within-RUG Change.
Site of Service		Utilization of Inputs.
		Site of Service.
Case-mix Adjustment Factors:		Case-mix Adjustment Factors:
Projected Case-mix	−0.5	Nominal across-RUG Case-mix.
Real across-DRG Change	0.5	Real across-RUG Change.
Total Cost per Admission	−0.5 to −1.0	Total per Diem Cost.
Other Policy Factors:		Other Policy Factors:
Reclassification and Recalibration	0.0	None.
Total Calculated Update	2.4 to 2.9	Total Calculated Update.

Table data derived from the August 1, 2000 **Federal Register**, Medicare Program; Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2001 Rates; Final Rule.

F. Additional Conceptual and Data Issues

Three conceptual issues specific to the SNF PPS are the relevance of a site-of-service substitution adjustment, the necessity of an adjustment for RUG reclassification, and the handling of one-time factors.

Under the inpatient hospital PPS, a site-of-service substitution factor (captured as part of intensity) was necessary because of the incentive to shift care from hospital inpatient to such other settings as hospital outpatient, SNFs, or home health agencies (HHAs). For SNF PPS, it must be determined whether incentives to shift care to these other settings will continue or whether the SNF PPS will reduce these incentives and/or create alternative incentives to shift care out of SNFs. It is not clear without additional research in this area whether changes in behavior created by the different Medicare payment systems should be reflected in a SNF update framework.

A reclassification and recalibration adjustment under the inpatient hospital PPS is necessary to account for additional changes in the case-mix factor resulting from reclassifying and recalibrating the DRG classification software. This factor is applied to the current fiscal year update, but reflects the effect of revisions in the fiscal year two years prior. MedPAC does not account for this adjustment in its update framework. Whether a RUG reclassification adjustment would be necessary in the update framework would depend on the data availability and the likelihood of revisions to RUG classifications on a periodic basis.

There is also a question about how to handle one-time factors, such as the increased costs of converting computer systems to Year 2000 (Y2K) compliance. An update framework is the appropriate mechanism to account for these items, but because of uncertainty surrounding their impact on costs, determining an appropriate adjustment amount may be difficult. MedPAC has discussed this issue in prior sessions, but was unable to agree on the exact methodology for these types of factors.

The purpose of this conceptual discussion is not to determine how the identified factors of the update framework would be measured. We do recognize, however, that it would be important to use the Medicare Cost Report (MCR) and other relevant data from SNFs to analyze the factors that would account for growth in costs per day. As was the case for the inpatient hospital PPS, we will be required to make optimal use of the MCR data as we proceed in the development of an update framework methodology.

The lack of historical case-mix data is another important issue. These data are

currently being collected under contract but will not be available for most historical years. This factor may prove difficult to account for in a historical analysis. In addition, there is no information currently available to make the distinction between real and nominal case-mix change. There are also concerns about the BLS output price measures for SNFs, especially during the first years of publication in 1996 and 1997. Output prices are relevant for measuring productivity in a historical context. Most of these concerns were also encountered and addressed in the inpatient hospital PPS update framework.

The discussion here provides the conceptual basis for developing an update framework for SNF PPS that reflects changes in the underlying costs of efficiently providing SNF services. It is important to note that the framework does not handle distribution issues such as geographic wage variations.

Due to some variations in technical methodologies for measuring the factors of an update framework, and because of some of the data concerns mentioned earlier, implementing an update framework for SNF PPS would involve making significant policy decisions on issues similar to those for the inpatient hospital PPS update framework. We invite comments on the type of data sources to use, what other factors (if any) we should consider in an update framework, and any additional comments concerning the issues discussed in this proposed rule.

V. Consolidated Billing

The consolidated billing requirement established by section 4432(b) of BBA 1997 places the Medicare billing responsibility with the SNF for virtually all of the services that the SNF's residents receive, except for a small number of services that the law specifically identifies as being excluded from this provision. For services that are subject to this provision, the original legislation made no distinction as to whether the services were furnished during the course of a covered Part A SNF stay.

We have implemented consolidated billing only for services that are furnished during the course of a covered Part A SNF stay. We have not implemented consolidated billing for those services furnished to SNF residents who are not in a covered Part A stay (for example, residents who have exhausted their available days of coverage under the Part A SNF benefit, or who do not meet that benefit's post-hospital or level of care requirements). As explained in the final rule of July 30, 1999 (64 FR 41671), implementing the Part B aspect of the provision would entail making significant systems modifications, which have been delayed by systems constraints that arose in connection with achieving Y2K compliance.

In addition, recently enacted provisions in BIPA 2000 have also affected this aspect of consolidated billing. For services furnished on or after January 1, 2001, section 313(a) of BIPA 2000 amends section 1862(a)(18) of the Act by eliminating consolidated billing for most services furnished to SNF residents during noncovered stays. This amendment limits the application of consolidated billing to those services that are furnished during the course of a covered Part A stay, with one exception: for SNF residents in noncovered stays, the only services for which the SNF retains the Medicare billing responsibility are physical, occupational, and speech-language therapy. (The related requirements for fee schedule payment and appropriate HCFA Common Procedure Coding System (HCPCS) coding for Part B SNF services have not been repealed, and remain the law.) We propose to revise the regulations at § 411.15(p) to reflect this change.

We regard the provision of therapy services as an inherent and integral function of this type of facility, and we believe that the statutory requirement for SNFs to retain the Part B billing responsibility for these particular services reflects a number of policy considerations. First, these are services for which the SNF already has the billing responsibility under the separate Part B therapy cap provision enacted by section 4541 of BBA 1997. In addition, unlike some types of services (such as ambulance and laboratory) with which SNFs historically have had only limited billing experience, most SNFs are familiar with the procedures involved in furnishing and billing for therapy and other skilled rehabilitation services. In fact, section 1819(a)(1) of the Act describes such a facility in terms of being primarily engaged in furnishing skilled nursing or rehabilitation services to its residents. The SNF level of care definition in section 1814(a)(2)(B) of the Act defines a beneficiary's access to SNF coverage under Part A as involving the need for and receipt of ''skilled nursing care * * * or other skilled rehabilitation services * * *''.

Finally, since the inception of the Medicare program, section 1861(h)(3) of the Act has provided for coverage of physical, occupational, and speech-language therapy services under the Part A extended care benefit when furnished either directly by the facility, or by others under arrangements with the facility. Thus, physical, occupational, and speech-language therapy are unique among SNF services because the law has always explicitly provided for Part A coverage of them when furnished under an arrangement with an outside supplier in which the SNF performs the Medicare billing for the services.

Section 313 of BIPA 2000 also contains a number of technical and conforming changes to reflect the amendment of section 1862(a)(18) of the Act, as discussed above. Section 313(b)(1) amends section 1842(b)(6)(E) of the Act (which provides that only the SNF can receive Part B payments for services furnished to those of its residents in noncovered stays), by limiting payment to SNFs to only those situations in which the SNF elects to furnish such Part B services—either directly with its own resources, or under an arrangement with an outside supplier in which the SNF assumes the billing responsibility. We are revising the regulations at § 410.150 to reflect this change. This section of the legislation also removes the existing language in section 1842(b)(6)(E) of the Act that refers to services furnished to a resident of ''* * * a part of a facility that includes a skilled nursing facility (as determined under regulations)''. As explained in the May 12, 1998, SNF PPS interim final rule (63 FR 26297), BBA 1997 originally introduced this language in order to apply the consolidated billing requirement not only to the portion of a nursing home that is actually certified as a Medicare SNF, but also to any noncertified remainder:

> This avoids creating a perverse incentive for SNFs to set aside a nonparticipating section in which they could otherwise circumvent the Consolidated Billing requirement for those residents who are not in a covered Part A stay.

However, since the consolidated billing requirement has now been limited to those residents in Part A covered stays, and physical, occupational, and speech-language therapy in noncovered stays, the language that extended its applicability to the noncertified portion of a nursing home is no longer relevant. This is reflected in our proposed change to the regulation at § 411.15.

Section 313(b)(2) of BIPA 2000 amends section 1842(t) of the Act by deleting a similar reference to the noncertified portion of a nursing home. Section 1842(t) of the Act requires that Part B claims for physician services furnished to SNF residents (which are excluded from consolidated billing)

must include the SNF Medicare provider number. Section 313(b)(2) of BIPA 2000 also expands this requirement to apply to Part B claims for all types of services furnished to SNF residents. For a SNF resident in a covered Part A stay, this expanded requirement would apply to claims for any type of service that is excluded from consolidated billing (and, thus, is separately billable to Part B by an outside source). For residents in a noncovered stay, it would encompass claims for all Part B services that the resident receives. We are proposing to revise the regulations at § 424.32 to reflect this change.

Section 313(b)(3) of BIPA 2000 amends the existing language in section 1866(a)(1)(H)(i)(I) of the Act by requiring compliance with section 1862(a)(18), as amended, under the terms of a SNF's Medicare provider agreement. We are proposing to revise the regulations at § 489.20 to reflect this change. Finally, section 313(d) of BIPA 2000 directs the Office of Inspector General to monitor payments for services furnished to SNF residents during noncovered stays, in order to help prevent duplicate payment or the excessive provision of services.

VI. Application of the SNF PPS to SNF Services Furnished by Swing-Bed Hospitals

A. Current System for Payment of Swing-bed Facility Services Under Part A of the Medicare Program

Section 1883 of the Act permits certain small, rural hospitals to enter into a swing-bed agreement, under which the hospital can use its beds to provide either acute or SNF care, as needed. Currently, Part A pays for SNF services furnished in Medicare swing-bed hospitals on a cost-related basis, with both calculated rate and retrospective, reasonable cost-based components. Under Medicare payment principles set forth in section 1883(a)(2)(B) of the Act and regulations at § 413.114, swing-bed facilities receive payment for two major categories of costs: routine and ancillary.

Routine costs are the costs of those services included by the provider in a daily service charge. Routine service costs include regular room, dietary, and nursing services, minor medical supplies, medical social services, psychiatric social services, and the use of certain facilities and equipment for which a separate charge is not made. Ancillary costs are costs for specialized services, such as therapy, drugs, and laboratory services, that are directly identifiable to individual patients. Capital-related costs, such as the cost of land, building, equipment, and the interest incurred in financing the acquisition of such items, are not reimbursed separately. Instead, they are incorporated into the routine and ancillary cost components of the rate.

Under Medicare rules, the reasonable cost of ancillary services is paid in full. For routine operating costs, swing-bed providers are paid a predetermined rate equal to the average reasonable routine cost of all freestanding SNFs in the census region. This pre-determined rate is based on annual cost report data, is adjusted for inflation, and is calculated on a calendar year basis. For swing-bed payment purposes, there are nine regions.

B. Requirement of the Balanced Budget Act of 1997 for Swing-Bed Facility Services To Be Paid Under the Prospective Payment System for Skilled Nursing Facilities

Section 1888(e)(7) of the Act and section 203 of BIPA 2000 confers authority on the Secretary to specify when swing-bed hospitals become subject to the SNF PPS, subject to the limitation that swing-bed hospitals cannot be paid under the SNF PPS for cost reporting periods prior to July 1, 1999, and must be paid under the SNF PPS by the end of the transition period described in section 1888(e)(2)(E) of the Act. The SNF PPS transition period ends June 30, 2002, the day immediately following the last day that any SNF could be eligible for the blended rate provisions established for the three-year transition period.

We are proposing to revise the regulations at § 413.114 to provide that swing-bed payments be made under the SNF PPS to swing-bed hospitals for cost reporting periods beginning on and after October 1, 2001, to ensure that the conversion is made within the statutory time frames. By selecting October 1, 2001 as the effective date, we can integrate the swing-bed hospitals into the SNF PPS program using the same time lines that are statutorily required for the annual SNF PPS updates.

Under BBA 1997, this conversion to the SNF PPS was intended to apply to payments to swing-bed facilities in critical access hospitals (CAHs) as well as to those facilities in rural hospitals. However, section 203 of BIPA 2000 exempted CAHs with swing-beds from the SNF PPS. Therefore, only rural hospitals with swing-beds will be subject to the SNF PPS.

Since the application of the SNF PPS to non-CAH swing-bed providers will not occur until the final portion of the SNF PPS phase-in period, those swing-bed providers are not eligible for a blended rate. Upon their PPS effective dates, all rural hospital swing-bed providers will be paid at the per diem Federal payment rate in effect for rural providers when services were delivered.

Section 4407 of BBA 1997 redefined the movement of patients from hospitals from PPS hospitals to SNFs as transfers rather then discharges. This provision applies to hospital discharges for 10 specific DRGs (014, 113, 209, 210, 211, 236, 263, 264, 429, and 483), and mandates that payment for these post-acute transfers cannot exceed the sum of 50 percent of the regular transfer payment and 50 percent of the regular DRG payment. This provision applies to all transfers from a DRG hospital to a SNF that is currently reimbursed under the SNF PPS.

Swing-bed discharges from acute to SNF-level care were specifically exempted from this provision, and swing-bed hospitals would retain their exempt status when they become subject to the SNF PPS. However, in connection with the possible reevaluation of the existing swing-bed conditions of participation discussed in the following section, and the potential for changes associated with a change in payment methodology, we plan to monitor swing-bed activity to determine whether any additional changes may be necessary. We are also mindful of the unique relationship between acute care and SNF-level services in a swing-bed facility. For this reason, we are soliciting comments on this issue, with particular emphasis on both the need for a swing-bed transfer provision and the expected impact it would have on swing-bed hospital operations. For a more detailed explanation of the policy regarding PPS hospital discharges to post-acute care providers, please see Program Memorandum A–98–26 (July, 1998).

C. Requirements of BBRA 1999 Affecting Swing-Bed Payment and Eligibility

Section 408 of BBRA 1999 modified the swing-bed provisions in section 1883(b) of the Act as follows:

- Hospitals with more than 49 and fewer than 100 beds will no longer be required to discharge beneficiaries from swing-beds within 5 days of a community SNF bed becoming available.
- Hospitals will no longer have a cap on the number of days of swing-bed services they can provide. The requirement that swing-bed days be no more than 15 percent of the total bed days was removed.

• Hospitals will no longer be required to obtain state Certificate of Need approval for swing-beds.

By removing the per discharge restrictions on length of stay and the aggregate caps on the facility's ratio of swing-bed to acute days, these BBRA 1999 provisions give swing-bed hospitals more flexibility in determining how to use their swing-beds. Under BBRA 1999, the implementation date of these amendments is to coincide with the timeframe for the swing-bed transition to the SNF PPS schedule. We propose to revise the regulations at § 413.114 to implement this change.

Since swing-bed services are provided within an acute care facility and have historically represented short stay services, swing-bed providers have not been subject to the full set of participation requirements that apply to SNFs. Instead, they have been subject to the hospital conditions of participation, plus an abbreviated set of SNF participation requirements specified in § 482.66. It is not our intent to change the swing-bed conditions of participation at this time; however, we are aware that the BBRA 1999 amendments may encourage swing-bed facilities to make greater use of their facilities to serve beneficiaries with longer term needs, who otherwise would have been transferred to a SNF. We plan to monitor swing-bed utilization and practice patterns to determine whether changes are occurring that warrant a review of swing-bed conditions of participation. We welcome comments on the need for and nature of changes, if any, that would be most helpful in ensuring continued high quality services in swing-bed facilities.

D. Implications of Swing-Bed Facility Conversion to the SNF PPS

The SNF PPS is an outgrowth of substantial research efforts beginning in the 1970s. It is based on the recognition that differences in patient characteristics result in different levels of resource utilization. Unlike some older payment methodologies that paid a flat per diem amount, a case-mix system measures the intensity of care and services required for each patient and then translates that into a payment level.

Under the SNF PPS, payment rates are based on mean SNF costs in a base year, updated for inflation. Swing-bed routine cost reimbursement is similarly based on a precalculated average cost. However, under the current methodology, swing-beds are paid at a rate consisting of the average of the freestanding nursing facility costs within the region. In contrast, under the SNF PPS, costs are calculated using both freestanding and hospital-based SNF data.

The ability to identify differences in patient service needs is crucial to the development of a case-mix system. For the SNF PPS, we needed a sophisticated patient classification system that specifically captured resource use of individuals receiving SNF-level care. The Resource Utilization Group, version 3 (RUG–III) is a 44-group patient classification system that was designed specifically to measure SNF-level services. RUG–III establishes a hierarchy of major patient types, organized into seven major categories. Each of these categories is further differentiated by patient characteristics and service needs to yield the 44 specific patient groups used for payment. Differences in service use are shown by assigning a weight or case mix index to each RUG–III group. This weight represents the amount of nursing and rehabilitation staff time, weighted by salary level, and is standardized to reflect the relative value of each group within the 44-group system.

Detailed descriptions of the RUG–III classification methodology are included in the May 12, 1998 SNF PPS final rule (63 FR 25252). Additional information on the RUG–III system is available in the annual SNF PPS updates (64 FR 41645, July 30, 1999, and 65 FR 46770, July 31, 2000). Like the DRG system used in the inpatient hospital PPS, the RUG–III system has been automated. Program specifications, record layouts and RUG–III coding logic may be found on HCFA's web site at *www.hcfa.gov/medicaid/mds2.0/default.htm.*

All data needed to classify a Medicare beneficiary into one of the RUG–III groups is contained in the MDS 2.0. The MDS 2.0 is a resident assessment instrument used by SNFs for care planning, quality monitoring, and SNF PPS payment. As described in Section G below, we plan to use the MDS 2.0 to calculate SNF PPS payments for swing-bed services.

All providers currently subject to the SNF PPS perform periodic MDS 2.0 assessments for Medicare beneficiaries in Part A stays. Facilities then generate electronic MDS 2.0 records, and transmit each beneficiary's assessment to a designated state agency. These electronic MDS 2.0 records are then transmitted by the state agency to HCFA's data repository. For more information on MDS encoding and transmission, see HCFA's final rule mandating the transmission of MDS records (62 FR 67174, December 23, 1997) and the HCFA web site at *www.hcfa.gov/medicaid/mds2.0/default.htm.*

Under SNF PPS, providers must transmit their MDS 2.0 assessments to the appropriate state agency and receive confirmation that the MDS 2.0 record has been accepted into the state's MDS 2.0 data base before submitting a bill to the Part A FI. Billing instructions have been developed for SNFs subject to the SNF PPS. Three Program Memorandums were issued shortly after the introduction of the SNF PPS, and provide a basic understanding of the current billing requirements (Program Memorandums A–98–16 (May 1998), A–98–20 (June 1998), and A–98–26 (July 1998)). In addition, each Part A FI has developed its own SNF PPS training materials and billing instructions. HCFA staff will be working with the FIs to review these billing requirements and to identify any changes or additions needed to accommodate swing bed providers. We are soliciting comments on concerns related to billing or claims processing in swing-bed facilities.

Finally, swing-bed claims are already subject to medical review to ensure that the services provided to Medicare beneficiaries are reasonable and necessary, and meet Medicare's SNF level of care criteria. Under the SNF PPS, these reviews will be modified to verify the accuracy of the clinical data used to determine the RUG–III group billed. We will work with the appropriate contractors to finalize procedures for these swing-bed reviews, and we plan to publish specific instructions and guidelines later this year.

E. SNF PPS Rate Components

The SNF PPS methodology is discussed in detail in the regulations at 42 CFR Part 413, subpart J. As this methodology is only now being applied to swing-bed hospitals, the major components of the PPS Federal rate are summarized below.

• The nursing component includes direct nursing care and the cost of non-therapy ancillary services required by Medicare beneficiaries. This portion of the rate is case-mix adjusted using the RUG–III classification system described in detail in the May 12, 1998 SNF PPS interim final rule (63 FR 26252). Swing-bed facilities will be reimbursed under the rural facility rates as shown in Table 6.

• The therapy component includes physical, occupational, and speech-language therapy services provided to beneficiaries in a Part A stay and, like the nursing component, is case-mix adjusted. Payment varies based on the actual therapy resource minutes

received by the beneficiary and reported on the MDS assessment instrument.

• The non-case-mix therapy component is a standard amount to cover the cost of therapy assessments of beneficiaries who were determined not to need continued therapy services. This payment is added to the rate for all RUG–III groups except those in the Rehabilitation category.

• The non-case-mix component is also a standard amount added to the rate for each RUG–III group to cover administrative and capital-related costs. The specific costs included in this rate component are described in the May 12, 1998 SNF PPS interim final rule (63 FR 26252).

The RUG–III system utilizes data from the MDS to determine the appropriate payment level for nursing and therapy services. Upon transition to PPS, swing-bed providers will be required to complete MDS assessments according to the same Medicare payment assessment schedule designated for SNFs: on the 5th, 14th, 30th, 60th, and 90th days of post-hospital extended care (Part A SNF) services.

In addition, the portion of the Federal rate attributable to wage-related costs is adjusted by a wage index. For swing-bed facilities, we will use the wage index applicable to the county in which the facility is located or, in the absence of a county wage index, the rural rate for the state in which the facility is located.

F. Implementation of the SNF PPS for Swing-Bed Facilities

Under section 1888(e)(7) of the Act, swing-bed providers (other than CAHs) would be subject to the SNF PPS by the end of the SNF PPS transition period described in section 1888(e)(2)(E) of the Act. However, swing-bed services are not subject to the consolidated billing requirement for services furnished to SNF residents under section 1862(a)(18) of the Act, but instead are subject to the similar bundling requirement for services furnished to hospital inpatients under section 1862(a)(14) of the Act (see section VI.J below).

G. Use of the Resident Assessment Instrument—Minimum Data Set (MDS 2.0)

Swing-bed facilities are not currently subject to the clinical MDS requirements, but will be required under the PPS to perform the Medicare-required MDS assessments.

The MDS required for payment purposes includes the MDS face sheet, Sections AA–R, and Section T. In addition, swing-bed providers, like other nursing facilities, must complete the discharge and reentry tracking forms as appropriate to track the beneficiary's movement into and out of the post-acute care facility. Swing-bed facilities that also participate in the Medicaid program may also be required, at State option, to complete Section S.

When completing the MDS, swing-bed facility staff should use the instructions in the Long Term Care RAI User's Manual. A copy of this manual is available on the HCFA web site at *www.hcfa.gov/medicaid/mds20/man-form.htm* and is also available for purchase.

The types of assessments used to support SNF PPS billing are described below.

1. Regularly Scheduled Medicare Assessments

MDS assessments must be performed in accordance with a predetermined schedule based upon the start of a Medicare Part A covered stay. The assessments are due on days 5, 14, 30, 60, and 90 of the SNF Part A covered stay.

2. Readmission/Return Assessments (MDS Item A8b=5)

This MDS reason for assessment is used when a beneficiary who is receiving Part A SNF care in a swing-bed is hospitalized and then returns to the swing-bed. The assessment reference date of the Readmission/Return Assessment must be set within 5 days of the readmission, as with a regular Medicare 5-day assessment. Like the 5-day assessment, there are 3 grace days available.

3. Other Medicare-Required Assessments (OMRA)

Other Medicare-Required Assessments (OMRAs) must be performed when a beneficiary in a covered Part A stay stops receiving therapy, but continues to receive other skilled services, thus remaining eligible for Part A services. This assessment must be performed between 8 and 10 days after the cessation of all rehabilitation therapy services. It may not be used to indicate changes in the amount or frequency of service or to show reductions in the number of therapy disciplines provided. For example, an OMRA is not required to show that a beneficiary's speech-language therapy has been discontinued when the beneficiary is still receiving physical therapy. This assessment is not required if the beneficiary's Part A stay is discontinued when the therapy is stopped.

Since swing-bed facilities do not perform significant change or significant correction assessments, we have no method of recognizing changes in the beneficiary's clinical status that occur outside the regular SNF PPS assessment schedule. For this reason, we are proposing to modify the MDS 2.0 by adding a new reason for an OMRA assessment specific to swing-bed facilities. Swing-bed providers would then use this additional reason for assessment code when preparing off-cycle assessments reflecting changes in patient status that change the RUG-III group and payment rate.

H. Required Schedule for Completing the MDS

Swing-bed providers would follow the same MDS completion schedule for Medicare PPS assessments as other providers reimbursed under the SNF PPS. When performing an MDS assessment, the registered nurse coordinating the assessment would first establish the period of time that would be used to observe and assess the beneficiary. The last day of the observation period is defined as the Assessment Reference Date (ARD). The ARD is the date used to determine the timeliness of the Medicare-required MDS assessments. The assessment schedule is shown in Table 12.

The Medicare Assessment Window refers to the days on which the MDS ARD may be set in order for the assessment to be considered timely. For example, the ARD for the 5-day assessment should be set between days 1 and 5 of the beneficiary's admission to the swing-bed. Since we realize that there will be exceptional circumstances in which additional time will be needed, we have provided for grace days. MDS assessments with ARDs on a grace day would also be considered timely. The timeliness of the MDS assessments may be monitored to identify providers that routinely perform assessments during the grace period.

In addition, Medicare PPS assessments are required to be completed within 14 days of the ARD. An MDS is considered completed on the date the Assessment Coordinator indicates on the MDS in Section R(2)(b). Swing-bed providers that fail to perform assessments or that perform late assessments (ARD outside of the specified assessment window) are paid at the default rate. This default rate is equal to the rate paid for the lowest acuity level in the RUG-III system, PA1.

TABLE 12.—ASSESSMENT SCHEDULE

Type of assessment	Assessment window days	Grace days	Payment period days
5 day	1–5	6–8	14
14 day	11–14	15–19	14
30 day	21–29	30–34	30
60 day	50–59	60–64	30
90 day	80–89	90–94	10

Each assessment would then be used to calculate a RUG–III group for payment. As shown in Table 12, the RUG–III group is used to bill Medicare for Medicare-covered days of SNF care. The days shown in the payment period column are the maximum number of covered days that can be billed using the 5, 14, 30, 60, and 90 day assessments. Swing-bed care, like care in SNFs, is covered by Medicare when the beneficiary meets the Medicare level of care and medical necessity criteria.

I. RUG–III ''Grouper'' Methodology and Software

RUG–III is a patient classification system that classifies beneficiaries receiving SNF care based on the amount of nursing and therapy resources needed to provide that level of care. RUG–III establishes a seven level hierarchy based on resource use. The seven levels are rehabilitative services, extensive care, special care, clinically complex, cognitive impairment, behavior, and reduced physical function. The classification system is then subdivided into 44 groups using activities of daily living (ADL) deficits, depression, and the provision of restorative nursing services as classification criteria. All data necessary to classify a patient into one of the RUG–III categories is contained on the MDS 2.0.

Swing-bed bills would be paid in the same manner as for all other providers subject to the SNF PPS. Swing-bed facilities would encode and transmit their MDS data to the appropriate State agency. The RUG–III group on the MDS would be validated by the State upon acceptance of the facility's MDS data file. The provider would bill Medicare using the validated RUG–III code. Detailed information on the RUG–III system can be found in the July 30, 1999 SNF PPS final rule published in the **Federal Register** (64 FR 41684), and on HCFA's PPS web site at *www.hcfa.gov/medicare/snfpps.htm.*

Detailed information on the RUG–III software can be found at *www.hcfa.gov/medicaid/mds20/default.htm.* These software groupers are available from many software vendors, however, we have developed the standard software grouper product, RAVEN, which is available to all providers at no cost. We also provide ongoing support for the RAVEN software, and have a Help Desk to assist providers with data transmission and other technical problems. The RAVEN software may be downloaded by accessing HCFA's web site at *www.hcfa.gov/medicaid/mds20/raven.htm.*

J. Applicability of Consolidated Billing to SNF Services Furnished in Swing-Bed Facilities

As enacted by section 4432(b) of BBA 1997, the SNF consolidated billing requirement (which places the Medicare billing responsibility for almost the entire range of Medicare-covered services with the SNF) is based on services that are furnished to SNF residents. However, a swing-bed agreement allows for the provision of SNF services to inpatients of certain small, rural hospitals. These swing-bed services are not subject to the SNF consolidated billing requirement at section 1862(a)(18) of the Act, since that provision applies to services that are furnished to residents of SNFs. Rather, these swing-bed services are subject to the hospital bundling requirement at section 1862(a)(14) of the Act, which applies to services that are furnished to inpatients of hospitals.

The hospital bundling requirement is a longstanding provision that has applied uniformly to all hospitals (including those with swing-bed agreements) and does not represent a new requirement or a change in existing procedures for these facilities. The hospital bundling provision is conceptually similar to the SNF consolidated billing requirement (since it places with the hospital the Medicare billing responsibility for virtually all services that the patient receives), and actually served as the model for the SNF consolidated billing legislation. Like SNF consolidated billing, hospital bundling specifically excludes the services of several types of practitioners (services furnished by physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse-midwives, clinical psychologists, and certified registered nurse anesthetists). However, unlike SNF consolidated billing, the hospital bundling provision does not provide for the additional exclusion of certain other types of services, such as dialysis or erythropoietin (EPO).

When the SNF PPS was implemented in July 1998, we received several questions concerning the relationship between SNF consolidated billing and Medicare's preadmission payment window provision, which requires that certain services furnished during the period immediately preceding an inpatient hospital admission be included in the payment for the hospital admission. The most common question is related to situations in which a SNF resident in a covered Part A SNF stay receives outpatient services from a hospital, and is subsequently admitted to that same hospital as an inpatient within three days. Both hospital and SNF providers were unsure whether the hospital outpatient services should be included on the hospital inpatient bill or were included in the SNF PPS payment. Since this issue is relevant to swing-bed patients who may require a readmission to an acute care hospital (either within the same facility or to another hospital), we are reiterating our previous clarification on this point.

Section 1886(a)(4) of the Act includes a preadmission payment window provision for hospitals. Under this provision, certain Part B services furnished by a hospital (or by an entity wholly owned or operated by the hospital) within three days before an inpatient admission to that hospital are included in the Medicare Part A payment for the hospital admission. However, we clarified the application of the payment window provisions in a final regulation published in the **Federal Register** on February 11, 1998 (63 FR 6865–66), to explain that this provision does not apply to Part A services furnished during the preadmission period by home health agencies, SNFs, and hospices. The preadmission payment window applies

only to services that are ''otherwise payable under Medicare Part B.'' Therefore, those preadmission services that are covered under the Part A SNF benefit would not be within the scope of the preadmission payment window provision.

However, services furnished on the day that a SNF resident is admitted to a hospital as an inpatient are not included in the SNF PPS payment rate. Thus, the outpatient hospital services furnished on that day would be subject to the preadmission payment window provision. In addition, services excluded from the SNF PPS under consolidated billing are considered Part B services and, when provided within three days of admission as a hospital inpatient, are subject to the preadmission payment window. Among these SNF PPS-excluded services are certain exceptionally intensive services furnished in the hospital setting: cardiac catheterization, computerized axial tomography (CT) scans, magnetic resonance imaging (MRIs), ambulatory surgery involving the use of an operating room, emergency services, radiation therapy, angiography, and certain lymphatic and venous procedures.

For a complete list of services that are reimbursed separately from the SNF PPS rate, please refer to Program Memorandums A–98–37 (November 1998, reissued as A–00–01, January 2000) and AB–00–18 (March 2000).

K. Costs Associated With Automating the MDS: Preliminary Estimates

In accordance with section 1888(e)(7) of the Act, we propose to apply the SNF PPS to swing-bed providers (other than CAHs) effective with cost reporting periods beginning on or after October 1, 2001, consistent with the statutory mandate to implement this provision by the end of the SNF PPS transition period described in section 1888(e)(2)(E) of the Act. Reimbursement under the SNF PPS is contingent upon the periodic completion of an MDS assessment, which is used to assign each beneficiary to an acuity level. Payment is then based on that acuity level. Therefore, all swing-bed providers must automate the MDS data collection and transmission process and be capable of transmitting MDS data no later than the effective date of the conversion to PPS. We anticipate that swing-bed providers will incur some incremental costs associated with automating and transmitting the MDS. Most start up costs associated with automating the MDS will be related to hardware, software, and staff training. These costs will vary with the size of each swing-bed facility, the facility's current level of computer technology, and the familiarity of staff with the MDS assessment instrument.

At the current time, a number of swing-bed hospitals also operate distinct part SNFs, and have systems in place to prepare, store, and transmit MDS assessments. We estimate that approximately 30 percent of the nation's 1,240 Medicare swing-bed providers presently have the hardware and software capability for automated MDS data collection and transmission. Other facilities may be using computers for other applications and may need to upgrade their systems to provide access to clinical and/or data entry staff within the swing-bed unit. For swing-bed hospitals that do not currently operate distinct part SNFs, we expect that a significant percentage will have either very limited capacity or no computer system at all.

Based on our experience with SNFs, we have developed this preliminary estimate of the costs a swing-bed provider can expect to incur. Costs are separated into two categories, start-up and maintenance.

- *Hardware*: We estimate total hardware costs associated with automating the MDS to be approximately $2,000 to $2,500 for a typical swing-bed provider. This amount includes the cost of a computer, communications components capable of running MDS software and transmitting MDS assessments, and a laser printer. This estimate is based on the most recent cost data available for a system that meets the specifications required by the State system. As noted earlier in this proposed rule, we expect that many swing-bed hospitals already have some computer capability and will not need to buy an entirely new system. Based on information currently available, we have no way to quantify the number of providers requiring upgrades to their existing computer systems in order to operate the MDS software. However, the cost of upgrading existing systems should be substantially less than the hardware cost estimates provided here. It is also possible that some providers may elect more sophisticated and expensive multi-user systems. However, since these systems are not generally appropriate for small facilities, are not required for SNF PPS payment purposes, we have considered this type of multi-user system to be an optional expense, and did not include it in the cost estimates. For this analysis, we assumed that all providers would purchase new hardware, and that assumption may overstate the cost estimates.

This cost estimate is based on a computer system suitable for a small business, and assumes that the facility will add applications and data files over time to support ongoing operations. We anticipate that many swing-bed hospitals will choose to purchase this type of system even though it will initially provide excess capacity, and believe that the selection is appropriate. Facilities may, of course, choose a more basic configuration at lower cost. A comparison between a small business industry standard configuration and the minimum system capable of running the necessary MDS software is shown in Table 13.A. Ongoing hardware maintenance costs for nursing homes are expected to average about $100 annually. Service contracts are also available for new PC purchases.

TABLE 13.A.—PPS COMPUTER REQUIREMENTS

Component	Small business standard	Basic MDS processing
Processor	Pentium III 933/133MH	Pentium III.
Memory	128MB sdram	32 MB.
Keyboard	Standard with PC	Standard with PC.
Monitor	17″ color monitor	14″ color monitor.
Hard Drive	20GB	100MB.
Floppy Drive	1.44MB 3.5″	1.44MB 3.5″.
Operating System	Win2000	Windows 98, NT.
Data Backup	Iomega 250MB Zip drive	Optional.
Mouse	Standard with PC	Standard with PC.
Modem	v.90 56K voice/data/fax	28.8k voice/data/fax.
Media Options	20/48X CD–Rom	Optional.
Communications software	Netscape or comparable device	Netscape or comparable device.

TABLE 13.A.—PPS COMPUTER REQUIREMENTS—Continued

Component	Small business standard	Basic MDS processing
Applications Software	Microsoft Small Business Norton AntiVirus	Optional Anti-virus software, recommended.
Printer	Laser Printer	Laser Printer.

• *Software:* Swing-bed providers desiring only to meet the MDS data submission requirements may use RAVEN, the MDS software developed by HCFA, which is available free of charge. RAVEN allows facilities to perform the basic encoding and formatting functions, and allows users to store and retrieve MDS documents. We already provide ongoing support for the RAVEN software, and the RAVEN Help Desk will be available to swing-bed providers to resolve software or transmission problems. We expect that RAVEN will meet the needs of many small swing-bed providers.

Some facilities will choose more sophisticated software programs that can be used to meet other clinical or operational needs, such as care planning, order entry, quality assurance, or billing. There are currently over 100 vendors marketing MDS software products, and the cost of MDS software packages varies widely. Depending on the number of work stations, the level of customer support, and the scope of reporting subsystems, an MDS processing system can cost anywhere from approximately $500 to $5,000 or more per year. Generally, the higher-priced software is designed for large SNFs or multi-facility chains and would be inappropriate for a small swing-bed facility. We would expect that swing-bed facilities that choose not to use RAVEN could purchase proprietary MDS software and support services at a cost ranging from $500 to $1,200 per year. While we have considered the possibility, absent a survey of swing-bed providers, we have no way to quantify how many will elect to purchase more elaborate proprietary MDS processing systems. The extra functionality associated with these systems is not required for payment under the SNF PPS, and should be considered optional costs. However, we have included a cost range in these estimates since we do not want to discourage providers from using MDS systems for other functions, such as quality assurance.

All swing-bed providers will need a common data communications software package to transmit MDS assessments to the State. This communications package must meet our specifications related to transmission of MDS data, which represent current technology. The cost of the communications software, the anti-virus software and the most common small business suite of word processing and spread sheet computer applications is included in the cost estimate for a small business standard configuration PC system.

• *Supplies:* Supplies necessary for collection and transmission of data including diskettes, computer paper, and toner, will vary according to the size of the facility in terms of residents served and assessments required. For the average facility, supply costs should average approximately $200 per year.

• *Maintenance:* There are costs associated with normal maintenance of computer equipment, such as the replacement of disk drives or memory chips. Typically, such maintenance is provided via extended warranty agreements with the original equipment manufacturer, system reseller, or a general computer support firm. These maintenance costs are estimated to average no more than $100 per year.

L. Provider Training

We recognize our responsibility to provide initial training, as well as ongoing technical support. We are currently evaluating training options and solicit comments on training methods, vehicles, and timeframes.

VII. Provisions of the Proposed Rule

The provisions of this proposed rule are as follows:

• In § 410.150, we propose to revise paragraph (b)(14) to reflect that Part B makes payment to the SNF for its resident's services only in those situations where the SNF itself furnishes the services, either directly or under an arrangement with an outside source.

• In § 411.15, we propose to revise paragraph (p)(1) to indicate that except for physical, occupational, and speech-language therapy, consolidated billing applies only to those services that a SNF resident receives during the course of a covered Part A stay. We would also make conforming revisions in §§ 489.20(s) and 489.21(h), in the context of the requirements of the SNF provider agreement. We propose to revise paragraph (p)(2) to indicate that, for Part B services furnished to a SNF resident, the requirement to enter the SNF's Medicare provider number on the Part B claim (which previously applied only to claims for physician services) would apply to all types of Part B claims. We would also make conforming revisions in the requirements regarding claims for payment, at §§ 424.32(a)(2) and (a)(5). We would revise the wording of the existing requirement in § 424.32(a)(5) for a SNF to include appropriate HCPCS coding and its Medicare provider number on the claims that it files for its residents' services, by adding that these requirements also apply to these claims when they are filed by an outside entity. In addition, we would revise § 411.15(p)(3) to exclude from the definition of a SNF resident, for consolidated billing purposes, those individuals who reside in the noncertified portion of an institution that also contains a participating distinct part SNF.

• In accordance with section 1888(e)(2)(E) of the Act, we propose to revise § 413.114 to reimburse swing-bed services of rural hospitals (other than CAHs, which would be paid on a reasonable cost basis) under the SNF PPS described in regulations at subpart J of that part. This conversion to the SNF PPS would be effective for services furnished during cost reporting periods beginning on or after October 1, 2001. We also propose to revise paragraph (d)(1) of this section to reflect the BBRA 1999 modifications to the special requirements for swing-bed facilities with more than 49 but fewer than 100 beds (as discussed in section VI.C of this preamble), and to make a conforming revision in § 424.20(a)(2).

VIII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment when a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comments on the following issues:

• Whether the information collection is necessary and useful to carry out the proper functions of the agency;

• The accuracy of the agency's estimate of the information collection burden;

• The quality, utility, and clarity of the information to be collected; and

• Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirements discussed below.

§ 413.114(a)(2)—Implementing the requirement in section 1888(e)(7) of the Act for the SNF PPS to encompass swing-bed services furnished in rural hospitals will require these providers to complete MDS assessments, in accordance with the schedule prescribed in regulations at 42 CFR 413.343(b). Accordingly, we are including in this proposed rule the following discussion of the anticipated burden for rural hospitals as a result of implementing this requirement.

On December 23, 1997, we issued in the **Federal Register** a final regulation requiring Medicare-certified SNFs and Medicaid-certified nursing facilities (NFs) to encode and transmit MDS data to HCFA in electronic format (42 FR 67174). In that rule, we provided cost estimates for training staff and conducting ongoing functions related to the preparation, data entry and transmission of MDS data. The estimates presented here are based on the analysis presented in the MDS automation rule, but are updated to reflect current wage data and unique aspects of swing-bed providers. We also used 1999 claims data to calculate the number of swing-bed stays and the average length of stay. These data were used to estimate ongoing MDS-related costs.

Using the best available 1999 claims data, we identified 97,576 swing bed stays. There are currently 1,250 swing-bed facilities. The average annual number of admissions is 78 per swing-bed hospital. Using the same 1999 claims data, the average length of stay is 8.79 days. Accordingly, on average, a typical swing-bed facility would need to complete only one MDS per admission, since the PPS 5-day assessment governs payment for the first 14 days of the stay.

• *Data Entry:* Based upon our experience with SNFs, we estimate that swing-bed facilities will need to train at least one staff person to handle the data entry and MDS processing system. State agencies currently train SNF staff on these functions, and the training is generally completed in a single half-day session. Additional training materials and updates to program requirements are generally posted on the MDS web sites, and are available to staff at no cost. By distributing information electronically, and providing Help Desks for software and transmission problems, we minimize the need for staff travel, and reduce the ongoing costs associated with encoding and transmitting MDS data.

Facilities may choose among a variety of approaches to encode the MDS data in electronic format. In many SNFs, the nurses conducting the assessments input their responses directly into the computer, and the data entry time is incorporated into the MDS preparation time. In others, a data entry operator is used to input the MDS data and maintain the MDS processing system. For SNFs, the data entry function averages 15 minutes per assessment. We also expect that staff will require approximately 2 hours per month to perform system-related functions such as processing corrections, retrieving assessment information, printing copies, verifying the accuracy of the data entered into the system, and reviewing program updates and training materials.

The hourly rate for data entry was estimated at $15, and reflects the salary differentials between the two types of staff typically performing this function: RNs and data operators.

• *Electronic Transmission:* Swing-bed staff will also need training on data transmission procedures. Again, state agencies have already developed training programs in this area, and this training will be available to swing-bed personnel. Generally, a facility would send one person to a half-day training program. This individual would be responsible for handling data transmission functions, and would be expected to train other facility staff on a time-available basis. We will make the MDS transmission system available to swing-bed providers prior to the effective date of the transition to the SNF PPS, and allow staff to practice transmission procedures. We would expect that each swing-bed provider would have successfully transmitted at least one MDS data file prior to the updated SNF PPS effective date. Once the designated individual has been trained, we estimate that the MDS transmission will take approximately one hour per month.

The hourly rate of data transmission was estimated at $15, and reflects the salary differentials between the two types of staff typically performing this function: RNs and data operators.

• *MDS Coding:* Training time will vary depending on the familiarity of swing-bed staff with MDS coding procedures and the presence of a hospital-based SNF that is already subject to the SNF PPS requirements. Many swing-bed hospital employees may have prior experience in a SNF where they were trained in MDS coding procedures. In addition, in 1999, approximately 25 percent of swing-bed hospitals also had hospital-based SNF facilities, and have a pool of trained staff who can assist swing-bed employees with MDS coding procedures. Regardless of the amount of inhouse support available, we believe it is advisable for each swing-bed hospital to designate an RN to assume lead responsibility, and to ensure that this RN is fully trained. We estimate that the initial training in MDS clinical coding and SNF PPS assessment scheduling will require two days.

Based upon the experience SNFs have had in completing the MDS, we estimate that it generally takes 45 minutes to complete a comprehensive assessment. We considered reducing this estimate for swing-bed providers for two reasons. First, the requirements for comprehensive assessments which are mandated under the Omnibus Budget Reconciliation Act of 1987, Pub.L. 100–203 (OBRA 1987) are somewhat higher than those applicable to the SNF PPS assessments. Second, SNF staff generally have limited knowledge concerning the care the patient received prior to the SNF admission, and limited access to the records from the prior hospital stay. As a result, the RN in the SNF conducting a 5-day PPS assessment has to build a completely new knowledge base about the patient's condition and care needs. By contrast, in a swing-bed hospital, the staff caring for the patient have the advantages of observing the patient during the acute portion of the stay, and should have more information already available when completing the SNF PPS 5-day assessment. However, rather than reducing the time estimate, we are using the higher number to reflect the expected learning curve over the first year as staff become more familiar with and proficient in completing the MDS.

As stated above, swing-bed providers averaged 78 stays per year with an average swing-bed length of stay of slightly under 9 days. Therefore, swing-bed providers would generally complete just one SNF PPS assessment for most patients; i.e., the 5-day assessment that governs payment for the first 14 days of a stay.

Although our projections are based on the most recent available data, and indicate that swing-bed providers will generally complete only one MDS per beneficiary during the course of a swing-bed stay, we are aware that this

utilization pattern could change. We note that the restrictions on beneficiary length of stay and the caps on the percentage of bed days that could be used for swing-bed service were eliminated by section 408 of BBRA 1999, effective with cost reporting periods beginning on and after October 1, 2002. With this added flexibility, swing-bed providers may decide to adjust their admission practices, and may serve more patients requiring longer lengths of stay. If this change occurs, swing-bed staff may be required to perform additional MDS assessments. Therefore, we plan to monitor swing-bed utilization patterns to identify any changes in provider practices and evaluate the impact of these changes on swing-bed performance under the SNF PPS. However, for the current analysis, we have used the best available historical data to project future experience.

To calculate the costs of preparing the MDS, we used 1998 Bureau of Labor Statistics nursing wage data including fringe benefits, updated to FY 2002 levels using the SNF market basket factor. The average hourly rate of $24.70 is used in the calculations shown in Table 13.B. The Aggregate Cost-Basic Option column estimates are based on October, 2000 data showing 1,250 certified swing-bed providers. The aggregate calculations assume that all providers chose either the basic or small business option. Absent a survey of all providers, we have no way to quantify the number of providers requiring upgrades to existing computer systems in order to operate the MDS software. We have assumed purchase of a new system for all providers, which may result in an overstatement of actual anticipated costs. The Basic Option-Cost/Facility Hardware estimate includes a laser printer, operating software, basic applications software, including Word 2000 and Excel 2000, and a one year service agreement and anti-virus software. The Small Business Option-Cost/Facility Hardware estimate includes a laser printer, operating software, Microsoft Office Suite applications software, anti-virus software, and a one year service agreement. The Communications Software estimate reflects the cost of Netscape or other communications software. It is assumed that swing-bed providers will use the free RAVEN software for MDS processing. This software was developed and tested by HCFA, and has been widely used by both hospital-based and freestanding SNFs during the past three years. We cannot quantify the number of providers who will choose to purchase proprietary systems, and therefore have included a cost range. We believe that the free RAVEN software, along with the associated Help Desk Services will meet the needs of most providers. The use of proprietary systems should be considered an optional cost.

TABLE 13.B.—SWING-BED RURAL HOSPITAL COST OF COMPLETING MDS

Category	Basic option-cost/facility	Small business option—cost/facility	Aggregate cost—basic option	Aggregate cost—small business option
Hardware	$1,400.00	$2,100.00	$1,750,000.00	$2,625,000.00
Comm. Software	100.00	100.00	125,000.00	125,000.00
MDS Software	0–1,200.00	0–1,200.00	0–1,500,000.00	0–1,500,000.00
Staff Training—MDS Coding	494.00	494.00	617,500.00	617,500.00
Staff Training—Entry and Transmission	240.00	240.00	300,000.00	300,000.00
Start Up Costs	2,234.00	2,934.00	2,792,500.00	3,667,500.00
MDS Preparation	1,445.00	1,445.00	216,750.00	216,750.00
MDS Entry	292.50	292.50	365,625.00	365,625.00
MDS Transmission	180.00	180.00	225,000.00	225,000.00
Supplies	200.00	200.00	250,000.00	250,000.00
Maintenance	100.00	100.00	125,000.00	125,000.00
Operating Cost	2,217.50	2,217.50	1,182,375.00	1,182,375.00
Estimated First Year Costs	4,451.50–5,651.50	5,151.50–6,351.50	3,974,875.00–5,474,875.00	4,849,875.00–6,349,875.00

§ 424.32(a)(5)—We propose to revise section 424.32(a)(5) to reflect the new statutory requirement that all Part B claims for services furnished to SNF residents must include the SNF's Medicare provider number. Because the burden associated with this additional requirement is incidental to the completion of a claim, we are unable to estimate the burden associated with this new requirement, and explicitly solicit comment. As a result of this new requirement, we will be revising the OMB clearance package for the HCFA–1500 (Common Claim Form), OMB number 0938–0008, which is currently being reviewed by OMB for re-approval.

We have submitted a copy of this proposed rule to OMB for its review of the information collection requirements in §§ 413.411(a)(2) and 424.32(a)(5). These requirements are not effective until they have been approved by OMB.

If you have any comments on any of these information collection and record keeping requirements, please mail one original and three copies within 60 days of the publication date directly to the following:

Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: John Burke, HCFA–1163–P.

And: Office of Information and Regulatory Affairs, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

IX. Regulatory Impact Analysis

We have examined the impact of this rule as required by Executive Order (EO) 12866, the Unfunded Mandate Reform Act (UMRA, Public Law 104–4), the Regulatory Flexibility Act (RFA, Public Law 96–354), and the Federalism Executive Order (EO) 13132.

Executive Order 12866 directs agencies to assess costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). This proposed rule is a major

rule as defined in Title 5, United States Code, section 804(2), because we estimate its impact will be to increase the payments to SNFs by approximately $300 million in FY 2002. The update set forth in this proposed rule applies to payments in FY 2002. Accordingly, the analysis that follows describes the impact of this one year only. In accordance with the requirements of the Act, we will publish a notice for each subsequent FY that will provide for an update to the payment rates and include an associated impact analysis.

The UMRA also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure in any year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more. This rule will have no consequential effect on State, local, or tribal governments. We believe the private sector cost of this rule falls below these thresholds as well.

Executive Order 13132 (effective November 2, 1999) establishes certain requirements that an agency must meet when it promulgates regulations that impose substantial direct compliance costs on State and local governments, preempt State law, or otherwise have Federalism implications. As stated above, this rule will have no consequential effect on State and local governments.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental agencies. Most SNFs and most other providers and suppliers are small entities, either by virtue of their nonprofit status or by having revenues of $10 million or less annually. For purposes of the RFA, all States and tribal governments are not considered to be small entities, nor are intermediaries or carriers. Individuals and States are not included in the definition of a small entity.

The policies contained in this proposed rule would update the SNF PPS rates by increasing the payment rates published in the July 31, 2000 notice (65 FR 46770). While we do not believe that this will have a significant effect upon small entities overall, some individual providers may experience significant increases in payments, while others (those that are concluding their final year under the transition from facility-specific to full Federal rates) may experience significant decreases, as discussed later in this section.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We have examined the impact on the 1,250 swing-bed facilities that would start receiving payment under the SNF PPS effective with cost reporting periods beginning on or after October 1, 2001, and find that the payments to these facilities will increase overall. Some swing-bed facilities may receive significant increases in Medicare related payments, as described later in this section. Accordingly, the following analysis includes a specific examination of the projected impact of these provisions on small rural hospitals.

A. Background

Section 1888(e) of the Act establishes the SNF PPS for the payment of Medicare SNF services for periods beginning on or after July 1, 1998. This section specifies that the base year cost data to be used for computing the RUG–III payment rates must be from FY 1995 (that is, October 1, 1994, through September 30, 1995.) In accordance with the statute, we also incorporated a number of elements into the SNF PPS, such as case-mix classification methodology, the MDS assessment schedule, a market basket index, a wage index, and the urban and rural distinction used in the development or adjustment of the Federal rates.

This proposed rule sets forth updates of the SNF PPS rates contained in the July 31, 2000 final rule (65 FR 46770). Table 14 presents the projected effects of the policy changes in the SNF PPS from FY 2001 to FY 2002, as well as statutory changes effective for FY 2001 and FY 2002. In so doing, we estimate the effects of each policy change by estimating payments while holding all other payment variables constant. We use the best data available, but we do not attempt to predict behavioral responses to our policy changes, and we do not make adjustments for future changes in such variables as days or case-mix.

This analysis incorporates the latest estimates of growth in service use and payments under the Medicare SNF benefit based on the latest available Medicare claims data and MDS 2.0 assessment data from 1999. We plan to update this data in the final rule. We note that certain events may combine to limit the scope or accuracy of our impact analysis, because such an analysis is future-oriented and, thus, very susceptible to forecasting errors due to other changes in the forecasted impact time period. Some examples of such possible events are newly legislated general Medicare program funding changes by the Congress, or changes specifically related to SNFs. In addition, changes to the Medicare program may continue to be made as a result of BBA 1997, BBRA 1999, BIPA 2000 or new statutory provisions. Although these changes may not be specific to SNF PPS, the nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon SNFs.

B. Impact of the Proposed Rule

The purpose of this proposed rule is not to initiate significant policy changes with regard to the SNF PPS; rather, it is to provide an update to the rates for FY 2002. We believe that the revisions and clarifications mentioned elsewhere in the preamble (for example, the update to the wage index used for adjusting the Federal rates) will have, at most, only a negligible overall effect upon the regulatory impact estimate specified in the rule. As such, these revisions will not represent an additional burden to the industry.

The aggregate increase in payments associated with this proposed rule is estimated to be $300 million. The effect of the 20 percent add-on from BBRA 1999 is $1.0 billion; however, since this add-on became effective in FY 2001, it has already been reflected in the impact analysis for last year's final rule (65 FR 46770) and, thus, does not represent a new, additional impact for the FY 2002 payment rates. There are three areas of change that produce this increase for facilities:

1. The effect of facilities being paid the full Federal rate.

2. The implementation of provisions in BIPA 2000, such as the 16.6 percent increase in the nursing component of each RUG and the elimination of the one percent reduction in the SNF market basket for FY 2001.

3. The total change in payments from FY 2001 levels to FY 2002 levels. This includes all of the previously noted changes in addition to the effect of the update to the rates.

As seen in Table 14, some of these areas are expected to result in increased aggregate payments and others are expected to tend to lower them. The breakdown of the various categories of data in the table is as follows:

The first row of figures in the table describes the estimated effects of the various policies on all facilities. The next six rows show the effects on facilities split by hospital-based, freestanding, urban and rural categories. The remainder of the table shows the effects on urban versus rural status by census region.

The second column in the table shows the number of facilities in the impact database. The third column shows the effect of the expiration of the transition and movement to the full Federal rates for all SNFs. This change has an overall effect of lowering payments by an estimated 8.5 percent, affecting hospital-based facilities more than freestanding facilities. The main reason for such a large decrease is the BBRA 1999 provision that allowed facilities to choose the full Federal rate. When given the option to do so, an estimated 43 percent of the facilities elected to go to the full Federal rate. This meant that the only facilities left to transition to the full Federal rate are ones for which the expiration of the transition will cause a decrease in reimbursement. In contrast, those facilities receiving the full Federal rate will experience an 11.6 percent increase in payments. The overall effect, therefore, reduced reimbursement, but the effects across regions are quite variable.

The fourth column shows the projected effect of the 16.66 percent add-on to the nursing portion of the Federal rate mandated by BIPA 2000. As expected, this results in an increase in payments for all facilities; however, as seen in the table, the varying effect of the SNF PPS transition results in a distributional impact. In addition, since this increase only applies to the nursing portion of the payment rate, the effect on total expenditures is less than 16.66 percent.

The fifth column of the table shows the effect of the change in the add-on for the rehabilitation RUGs. The total impact of this change is zero percent; however, there are distributional effects of this change, as seen in the table.

The sixth column of the table shows the effect of all of the changes on the FY 2002 payments. This includes all of the previous changes, including the update to this year's payment rates by the market basket. Rebasing of the market basket index from 1992 to 1997 had little impact on the overall changes displayed in this column. It is projected that payments will increase by 2.1 percent in total, assuming facilities do not change their care delivery and billing practices in response. As can be seen from this table, the combined effects of all the changes vary widely by specific types of providers and by location. For example, freestanding facilities experience payment increases, while the effects of the transition cause decreases in payments for hospital-based providers.

TABLE 14.—PROJECTED IMPACT OF FY 2002 UPDATE TO THE SNF PPS

	Number of facilities	Transition to federal rates (percent)	Add-on to nursing rates (percent)	Add-on to rehab RUGs (percent)	Total FY 2002 change (percent)
Total	9037	−8.5	7.9	0.0	2.1
Urban	6300	−9.0	8.0	0.1	1.7
Rural	2737	−6.7	7.5	−0.5	3.2
Hospital based urban	683	−14.7	8.5	−0.8	−5.1
Freestanding urban	5617	−8.1	7.9	0.3	2.8
Hospital based rural	533	−9.7	8.2	−2.0	−1.0
Freestanding rural	2204	−6.2	7.4	−0.3	3.9
Urban by region.					
New England	630	−3.9	8.1	0.2	7.6
Middle Atlantic	877	−2.9	8.4	−1.7	7.0
South Atlantic	959	−10.5	7.7	0.8	0.5
East North Central	1232	−7.6	7.8	0.9	3.9
East South Central	212	−8.8	7.8	0.4	2.1
West North Central	469	−10.6	7.9	0.1	−0.2
West South Central	519	−19.5	8.1	0.1	−9.9
Mountain	303	−17.3	7.5	1.5	−6.7
Pacific	1070	−13.9	8.0	0.5	−3.4
Rural by region.					
New England	88	−0.9	7.5	−0.4	9.7
Middle Atlantic	144	−4.4	7.7	−1.5	4.9
South Atlantic	373	−5.3	7.5	0.1	5.4
East North Central	561	−5.1	7.4	0.0	5.4
East South Central	255	−5.1	7.9	−2.6	3.1
West North Central	581	−8.2	7.7	−1.4	0.8
West South Central	354	−14.9	7.5	0.2	−5.2
Mountain	204	−11.6	7.2	−0.1	−2.1
Pacific	151	−7.4	7.2	0.6	3.3

In accordance with section 1888(e)(7) of the Act, we propose to pay rural hospitals for SNF-level swing-bed services under the SNF PPS effective with cost report periods beginning on and after October 1, 2001. In making this proposal, we have examined the anticipated impact of this payment change on swing-bed facilities.

We analyzed data from swing-bed claims for calendar years 1996 through 1998 to determine Medicare payments made under the current swing-bed payment system. The claims data reflect the predetermined routine cost payments and the interim payment for ancillary services. While the interim payment rate for ancillary services is subject to final cost settlement, it represents a reasonable proxy for actual swing-bed payments.

We then adjusted the historical data on swing-bed payments to 2002 levels. For calendar years 1999 through 2001, we projected the average payment per day, using the 6.5 percent growth rate calculated from the most recent

available data from calendar years 1997 and 1998. For 2002, we used a blended growth rate that reflects a projected increase in payment for routine services equal to the market basket of 2.4 percent, but retains the historical growth factor of 6.5 percent for ancillary payments. In 1998, the average payment per day was $205.41. The estimated swing-bed payment per day for 2002 under the existing method of reimbursement is $258.41.

We then estimated the amount that would have been paid for the same services under the SNF PPS. This estimate reflected both adjustments for geographic variation and case-mix. For the geographic adjustment, we used the average rural wage index for FY 2001 (that is, 0.8700). For case-mix, although Medicare swing-bed claims do not include all of the data elements necessary to classify patients in exactly the same way as the patients would be classified in the RUG–III system, there is enough information to assign Medicare swing-bed patients to RUG–III categories at a general level. To generate this classification, we used the MEDPAR case-mix analog described in detail in the SNF PPS interim final rule published on May 12, 1998 (63 FR 26252). As a result, we were able to estimate how the national swing-bed population would classify into RUG–III categories. We found that 69 percent of the covered days would be assigned to just two RUG–III categories (or six groups): medium rehabilitation and extensive services.

We also noted that 9 percent of the covered days were assigned to categories that are not typically associated with a Medicare level of care (impaired cognition and lower groups). We have not assumed that these claims were paid in error. Rather, we are assuming that these patients had skilled care needs other than ones that could be captured using the MEDPAR case-mix analog, and we have included these stays in our analysis.

TABLE 15.—RUG–III FREQUENCY DISTRIBUTION USING CALENDAR YEAR 1999 CLAIMS

RUG–III category level	Number of days paid	Percent of total days
Ultra High Rehab	30,618	3
Very High Rehab	33,687	4
High Rehab	76,596	9
Medium Rehab	264,614	30
Low Rehab	58,016	7
Extensive Services	288,131	33
Special Care	11,540	1
Clinically Complex	35,304	4
Impaired Cognition	4,737	1
Other	72,293	8
Totals	875,536	100

Our next step was to project the SNF PPS payments for these swing-bed services. For the purposes of this analysis, we used the calendar year frequency distribution and number of covered swing-bed days shown in Table 15. Unique nursing case-mix weights have already been developed for each level of the MEDPAR case-mix analog. These weights were used to adjust the proposed FY 2002 rural SNF PPS rates set forth in this proposed rule to determine the SNF PPS rates used in this estimate. We adjusted these rates for all BBRA and BIPA add-ons applicable for FY 2002.

Based on our analysis, the FY 2002 SNF PPS payment amount exceeds the projected payments under the current swing-bed payment system for that year in 5 of the 10 case-mix analog categories that included 79 percent of the swing bed days. In fact, for the two most common RUG-III categories, medium rehabilitation and extensive services, the projected increases are substantial: 14 percent for medium rehabilitation and 16 percent for extensive services. In addition, records in two of the categories where the projected SNF PPS rate is lower than the projected swing-bed payment amount under the present system (impaired cognition and other) group into much higher categories when using the full RUG–III algorithm.

In terms of aggregate Medicare expenditures, we estimate that the transition to SNF PPS will increase payments for SNF-level swing-bed services by 9 percent, or approximately $20 million, while the aggregate costs will be approximately $20 million in benefits and 6.32 million for completion of the MDS assessments.

Based on these estimates, we believe the financial impact on swing-bed providers will be positive, with the anticipated 9 percent payment increase serving to offset the estimated start-up costs associated with MDS completion and transmission (described in section VI.K of this proposed rule).

Finally, in accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

X. Federalism

We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and we have determined that it does not significantly affect the rights, roles, and responsibilities of States.

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 411

Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 413

Health Facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Part 482

Grant programs-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR chapter IV is proposed to be amended as follows:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

1. The authority citation for part 410 continues to read as follows:

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

* * * * *

Subpart I—Payment of SMI Benefits

2. In § 410.150, the introductory text of paragraph (b) is republished, and paragraph (b)(14) is revised to read as follows:

§ 410.150 To whom payment is made.

* * * * *

(b) *Specific rules.* Subject to the conditions set forth in paragraph (a) of this section, Medicare Part B pays as follows:

* * * * *

(14) To an SNF for services (other than those described in § 411.15(p)(2) of this chapter) that it furnishes to a

resident (as defined in § 411.15(p)(3) of this chapter) of the SNF who is not in a covered Part A stay.

* * * * *

PART 411—EXCLUSIONS FROM MEDICARE AND LIMITATIONS ON MEDICARE PAYMENT

3. The authority citation for part 411 continues to read as follows:

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

Subpart A—General Exclusions and Exclusion of Particular Services

4. In § 411.15, paragraph (p)(1) is revised, and paragraph (p)(2) introductory text, paragraph (p)(2)(i), and paragraph (p)(3) introductory text are revised to read as follows:

§ 411.15 Particular services excluded from coverage.

* * * * *

(p) *Services furnished to SNF residents.* (1) *Basic rule.* Except as provided in paragraph (p)(2) of this section, any service furnished to a resident of an SNF during a covered Part A stay by an entity other than the SNF, unless the SNF has an arrangement (as defined in § 409.3 of this chapter) with that entity to furnish that particular service to the SNF's residents. Services subject to exclusion under this paragraph include, but are not limited to—

(i) Any physical, occupational, or speech-language therapy services, regardless of whether the services are furnished by (or under the supervision of) a physician or other health care professional, and regardless of whether the resident who receives the services is in a covered Part A stay; and

(ii) Services furnished as an incident to the professional services of a physician or other health care professional specified in paragraph (p)(2) of this section.

(2) *Exceptions.* The following services are not excluded from coverage, provided that the claim for payment includes the SNF's Medicare provider number in accordance with § 424.32(a)(5) of this chapter:

(i) Physicians' services that meet the criteria of § 415.102(a) of this chapter for payment on a fee schedule basis.

* * * * *

(3) *SNF resident defined.* For purposes of this paragraph, a beneficiary who is admitted to a Medicare-participating SNF is considered to be a resident of the SNF. Whenever the beneficiary leaves the facility, the beneficiary's status as an SNF resident for purposes of this paragraph (along with the SNF's responsibility to furnish or make arrangements for the services described in paragraph (p)(1) of this section) ends when one of the following events occurs—

* * * * *

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

5. The authority citation for part 413 is amended to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, 1886, and 1888 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395(f)b, 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, 1395ww, and 1395yy).

Subpart F—Specific Categories of Costs

6. In § 413.114:

a. Paragraph (a) is revised.

b. In paragraph (c), the heading is revised.

c. Paragraph (d)(1) introductory text is revised.

§ 413.114 Payment for posthospital SNF care furnished by a swing-bed hospital.

(a) *Purpose and basis.* This section implements section 1883 of the Act, which provides for payment for posthospital SNF care furnished by rural hospitals and CAHs having a swing-bed approval.

(1) *Services furnished in cost reporting periods beginning prior to October 1, 2001.* Posthospital SNF care furnished in general routine inpatient beds in rural hospitals and CAHs is paid in accordance with the special rules in paragraph (c) of this section for determining the reasonable cost of this care. When furnished by rural and CAH swing-bed hospitals approved after March 31, 1988 with more than 49 beds (but fewer than 100), these services must also meet the additional payment requirements set forth in paragraph (d) of this section.

(2) *Services furnished in cost reporting periods beginning on and after October 1, 2001.* Posthospital SNF care furnished in general routine inpatient beds in rural hospitals (other than CAHs) is paid in accordance with the provisions of the prospective payment system for SNFs described in subpart J of this part. Posthospital SNF care furnished in general routine inpatient beds in CAHs is paid based on reasonable cost, in accordance with the provisions of subparts A through G of this part (other than paragraphs (c) and (d) of this section).

* * * * *

(c) *Special rules for determining the reasonable cost of posthospital SNF care furnished in cost reporting periods beginning prior to October 1, 2001.*

(d) *Additional requirements*—(1) *General rule.* For services furnished in cost reporting periods beginning prior to October 1, 2001, in order for Medicare payment to be made to a swing-bed hospital with more than 49 beds (but fewer than 100), the following payment requirements must be met:

* * * * *

7. In § 413.337, paragraph (e) is added to read as follows:

§ 413.337 Methodology for calculating the prospective payment rates.

* * * * *

(e) Pursuant to section 101 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) and revised by section 314 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), using the best available data, the Secretary will issue a new regulation with a newly refined case-mix classification system to better account for medically complex patients. Upon issuance of the new regulation, the temporary increases in payment for certain high cost patients will no longer be applicable.

* * * * *

PART 424—CONDITIONS FOR MEDICARE PAYMENT

8. The authority citation for part 424 continues to read as follows:

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

9. In § 424.20(a)(2), the heading is revised to read as follows:

§ 424.20 Requirements for posthospital SNF care.

(a) * * *

(2) *Special requirement for certifications performed prior to October 1, 2001: A swing-bed hospital with more than 49 beds (but fewer than 100) that does not transfer a swing-bed patient to a SNF within 5 days of the availability date.* * * *

* * * * *

Subpart C—Claims for Payment

10. In § 424.32, the introductory text of paragraph (a) is republished, and paragraphs (a)(2) and (a)(5) are revised.

§ 424.32 Basic requirements for all claims.

(a) A claim must meet the following requirements:

* * * * *

(2) A claim for physician services, clinical psychologist services, or clinical social worker services must include appropriate diagnostic coding for those services using ICD–9–CM.

* * * * *

(5) All Part B claims for services furnished to SNF residents (whether filed by the SNF or by another entity) must include the SNF's Medicare provider number and appropriate HCPCS coding.

* * * * *

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

11. The authority citation for part 489 continues to read as follows:

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

Subpart B—Essentials of Provider Agreements

12. In § 489.20, the introductory text is republished, and the introductory text of paragraph (s) is revised.

§ 489.20 Basic commitments.

The provider agrees to the following:

* * * * *

(s) In the case of an SNF, either to furnish directly or make arrangements (as defined in § 409.3 of this chapter) for any physical, occupational, or speech-language therapy services furnished to a resident of the SNF under § 411.15(p) of this chapter (regardless of whether the resident is in a covered Part A stay), and also either to furnish directly or make arrangements for all other Medicare-covered services furnished to a resident during a covered Part A stay, except the following:

* * * * *

13. In § 489.21, the introductory text is republished, and paragraph (h) is revised to read as follows:

§ 489.21 Specific limitations on charges.

Except as specified in subpart C of this part, the provider agrees not to charge a beneficiary for any of the following:

* * * * *

(h) Items and services (other than those described in § 489.20(s)(1) through (15)) required to be furnished under § 489.20(s) to a resident of an SNF (defined in § 411.15(p) of this chapter), for which Medicare payment would be made if furnished by the SNF or by other providers or suppliers under arrangements made with them by the SNF. For this purpose, a charge by another provider or supplier for such an item or service is treated as a charge by the SNF for the item or service, and is also prohibited.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix—Technical Features of the Proposed 1997 Skilled Nursing Facility Market Basket Index

As discussed in the preamble of this proposed rule, we propose to revise and rebase the SNF market basket. This appendix describes the technical aspects of the 1997-based index that we are proposing in this rule. We present this description of the market basket in three steps:

- A synopsis of the structural differences between the 1992-and the 1997-based market baskets.
- A description of the methodology used to develop the cost category weights in the proposed 1997-based market basket.
- A description of the data sources used to measure price change for each component of the proposed 1997-based market basket, making note of the differences, if any, from the price proxies used in the 1992-based market basket.

I. Synopsis of Structural Changes Adopted in the Proposed Revised and Rebased 1997 Skilled Nursing Facility Market Basket

We are proposing just one major structural change between the current 1992-based and the proposed 1997-based SNF market baskets, which is that more recent SNF cost data would be used in the proposed revised and rebased SNF market basket.

The proposed 1997-based market basket contains cost shares for six major cost categories that were derived from an edited set of FY 1997 Medicare Cost Reports for freestanding SNFs that had Medicare expenses. FY 1997 cost reports have cost reporting periods beginning after September 30, 1996 and before October 1, 1997. The 1992-based market basket used data from the PPS–9 Medicare Cost Reports for freestanding SNFs with Medicare expenses greater than 1 percent of total expenses. PPS–9 cost reports have cost reporting periods beginning after September 30, 1991 and before October 1, 1992. Cost allocations for the proposed 1997-based SNF market basket within the six major cost categories use Medicare Cost Reports and two Department of Commerce data sources: the 1997 Business Expenditures Survey, Bureau of the Census, Economics and Statistics Administration, and the 1997 Bureau of Economic Analysis' Annual Input-Output tables.

II. Methodology for Developing the Cost Category Weights

Cost category weights for the proposed 1997-based market basket were developed in two stages. First, base weights for six main categories (wages and salaries, employee benefits, contract labor, pharmaceuticals, capital-related expenses, and a residual ''all other'') were derived from the SNF Medicare Cost Reports described above. The residual ''all other'' cost category was divided into subcategories, using U.S. Department of Commerce data sources for the nursing home industry. Relationships from the 1997 Business Expenditures Survey and data from the 1997 Annual Input-Output tables were used to allocate the all other cost category.

Below we describe the source of the main category weights and their subcategories in the proposed 1997-based market basket.

- *Wages and Salaries:* The wages and salaries cost category is derived using 1997 SNF Medicare Cost Reports. The share was determined using wages and salaries from Worksheet S–3, part II and total expenses from Worksheet B. This share represents the wage and salary share of costs for employees of the nursing home, and does not include the wages and salaries from contract labor, which is allocated to wages and salaries at a later step.
- *Employee Benefits:* The weight for employee benefits was determined using 1997 Medicare Cost Reports. The share was derived using wage-related costs from Worksheet S–3, part II.
- *Contract Labor:* The weight for the contract labor cost category was derived using 1997 Medicare Cost Reports. For the proposed 1997-based SNF market basket, we used an edited group of cost reports with data filled in for contract labor on Worksheet S–3, part II. This methodology differed from that of the 1992 SNF market basket (where we estimated contract labor costs using data from Worksheet A) since Worksheet S–3, part II, was not available in the 1992 Cost Reports. This methodology produces results that are similar to the contract labor share in the 1997 Business Expenditures Survey. Contract labor was not available in the 1992 Asset and Expenditure Survey. As explained in the preamble, contract labor costs were distributed between the wages and salaries and employee benefits cost categories, under the assumption that contract costs should move at the same rate as direct labor costs even though unit labor cost levels may be different.
- *Pharmaceuticals:* The pharmaceuticals cost weight was derived from 1997 SNF Medicare Cost Reports. This share was calculated using non-salary costs from the pharmacy and drugs charged to patients' cost centers from Worksheet A.
- *Capital-Related:* The weight for the overall capital-related expenses cost category was derived using 1997 SNF Medicare Cost Report data from Worksheet B. The subcategory and vintage weights within the overall capital-related expenses were derived using additional data sources. The methodology for deriving these weights is described below.

In determining the subcategory weights for capital, we used a combination of information from the 1997 SNF Medicare Cost Reports and the 1997 Census Business Expenditures Survey. We estimated the depreciation expense share of capital-related expenses from the SNF Medicare Cost Reports using data from edited cost reports with data completed on Worksheet G. For the 1992-based SNF market basket, we had used depreciation expenses from the 1992 Asset

and Expenditure Survey. When we calculated the ratio of depreciation to wages from the 1997 SNF Medicare Cost Reports, the result was consistent with the ratio from the 1997 Business Expenditures Survey. The distribution between building and fixed equipment and movable equipment was determined from the 1997 Business Expenditures Survey. From these calculations, depreciation expenses (not including depreciation expenses implicit from leases) were estimated to be 33.2 percent of total capital-related expenditures in 1997.

The interest expense share of capital-related expenses was also derived from the same edited 1997 SNF Medicare Cost Reports. Interest expenses are not identifiable in the 1997 Business Expenditures Survey. We determined the split of interest expense between for-profit and not-for-profit facilities based on the distribution of long-term debt outstanding by type of SNF (for-profit or not-for-profit) from the 1997 SNF Medicare Cost Reports. Interest expense (not including interest expenses implicit from leases) was estimated to be 24.3 percent of total capital-related expenditures in 1997.

We used the 1997 Business Expenditures Survey to estimate the proportion of capital-related expenses attributable to leasing building and fixed and movable equipment. This share was estimated to be 34.9 percent of capital-related expenses in 1997. The split between fixed and movable lease expenses was directly available from the 1997 Business Expenditures Survey. We used this split, and the distribution of depreciation and interest calculated above to distribute leases among these cost categories. The remaining residual is considered to be other capital-related expenses (insurance, taxes, other). Other capital-related expenses were estimated to be 7.7 percent of total capital-related expenditures in 1997.

Table A–1 shows the capital-related expense distribution (including expenses from leases) in the proposed 1997 SNF PPS market basket and the 1992 SNF market basket.

TABLE A–1.—CAPITAL-RELATED EXPENSE DISTRIBUTION

	1992-based SNF capital-related expenses*	Proposed 1997-based SNF capital-related expenses*
Total	100.0	100.0
Depreciation	60.5	53.3
Building and Fixed Equipment	42.1	36.5
Movable equipment	18.4	16.8
Interest	32.6	39.0
Other capital-related expense	6.9	7.7

*As a percent of Total Capital-Related Expenses.

As explained in section III.B of the preamble, our methodology for determining the price change of capital-related expenses accounts for the vintage nature of capital, which is the acquisition and use of capital over time. In order to capture this vintage nature, the price proxies must be vintage-weighted. The determination of these vintage weights occurs in two steps. First, we must determine the expected useful life of capital and debt instruments in SNFs. Second, we must identify the proportion of expenditures within a cost category that are attributable to each individual year over the useful life of the relevant capital assets, or the vintage weights.

The derivation of useful life of capital is explained in detail in the May 12, 1998 interim final rule (63 FR 26252). The useful lives for the proposed 1997-based SNF market basket are the same as the 1992-based SNF market basket. The data source that was previously used to develop the useful lives of capital is no longer available and a suitable replacement has not been identified. We welcome comments on any data sources that would provide the necessary information for determining useful lives of capital and debt instruments.

Given the expected useful life of capital and debt instruments, we must determine the proportion of capital expenditures attributable to each year of the expected useful life by cost category. These proportions represent the vintage weights. We were not able to find an historical time series of capital expenditures by SNFs. Therefore, we approximated the capital expenditure patterns of SNFs over time using alternative SNF data sources. For building and fixed equipment, we used the stock of beds in nursing homes from the HCFA National Health Accounts for 1962 through 1997. We then used the change in the stock of beds each year to approximate building and fixed equipment purchases for that year. This procedure assumes that bed growth reflects the growth in capital-related costs in SNFs for building and fixed equipment. We believe this assumption is reasonable since the number of beds reflects the size of the SNF, and as the SNF adds beds, it also adds fixed capital.

For movable equipment, we used available SNF data to capture the changes in intensity of SNF services that would cause SNFs to purchase movable equipment. We estimated the change in intensity as the trend in the ratio of non-therapy ancillary costs to routine costs from the 1989 through 1997 SNF Medicare Cost Reports. We estimated this ratio for 1962 through 1988 using regression analysis. The time series of the ratio of non-therapy ancillary costs to routine costs for SNFs measures changes in intensity in SNF services, which are assumed to be associated with movable equipment purchase patterns. The assumption here is that as non-therapy ancillary costs increase compared with routine costs, the SNF caseload becomes more complex and would require more movable equipment. Again, the lack of direct movable equipment purchase data for SNFs over time required us to use alternative SNF data sources. The resulting two time series, determined from beds and the ratio of non-therapy ancillary to routine costs, reflect real capital purchases of building and fixed equipment and movable equipment over time, respectively.

To obtain nominal purchases, which are used to determine the vintage weights for interest, we converted the two real capital purchase series from 1963 through 1997 determined above to nominal capital purchase series using their respective price proxies (Boeckh institutional construction index and PPI for machinery and equipment). We then combined the two nominal series into one nominal capital purchase series for 1963 through 1997. Nominal capital purchases are needed for interest vintage weights to capture the value of the debt instrument.

Once these capital purchase time series were created for 1963 through 1997, we averaged different periods to obtain an average capital purchase pattern over time. For building and fixed equipment we averaged thirteen 23-year periods, for movable equipment we averaged twenty-six 10-year periods, and for interest we averaged fourteen 22-year periods. The vintage weight for a given year is calculated by dividing the capital purchase amount in any given year by the total amount of purchases during the expected useful life of the equipment or debt instrument. This methodology was described in full in the May 12, 1998 **Federal Register** (63 FR 26252). The resulting vintage weights for each of these cost categories are shown in Table A–2.

APPENDIX TABLE A–2.—VINTAGE WEIGHTS FOR PROPOSED 1997-BASED SNF PPS CAPITAL-RELATED PRICE PROXIES

Year	Building and fixed equipment	Movable equipment	Interest
1	0.082	0.083	0.025
2	0.086	0.088	0.028
3	0.085	0.089	0.031
4	0.083	0.090	0.034
5	0.077	0.091	0.038
6	0.069	0.097	0.042
7	0.063	0.106	0.046
8	0.060	0.111	0.049
9	0.050	0.116	0.051
10	0.040	0.128	0.051
11	0.040	.....	0.052
12	0.036	.....	0.053
13	0.030	.....	0.051
14	0.020	.....	0.050
15	0.016	.....	0.049
16	0.014	.....	0.048
17	0.012	.....	0.049
18	0.017	.....	0.050
19	0.018	.....	0.051
20	0.023	.....	0.051
21	0.025	.....	0.049
22	0.027	.....	0.051
23	0.029	.....	.....
Total	1.000	1.000	1.000

Sources: 1997 SNF Medicare Cost Reports; HCFA, National Health Accounts.

Note: Totals may not sum to 1.000 due to rounding.

• *All Other:* Subcategory weights for the All Other category were derived using information from two U.S. Department of Commerce data sources. Weights for the three utilities cost categories, as well as that for telephone services, were derived from the 1997 Business Expenditure Survey. Weights for other cost categories were derived from the 1997 Annual Input-Output tables.

III. Price Proxies Used To Measure Cost Category Growth

A. Wages and Salaries

For measuring price growth in the wages and salaries cost component of the 1997-based SNF market basket, we propose using the percentage change in the ECI for wages and salaries for private nursing homes. The ECI for wages and salaries for private nursing homes is a fixed-weight index that measures the rate of change in employee wage rates per hour worked. It measures pure price change and is not affected by shifts among occupations. Average Hourly Earnings (AHE) confounds changes in the proportion of different occupations with changes in earnings levels for a given occupation and, thus, is an inferior price proxy for our purpose. Even so, using the AHE for nursing homes has little effect on the percentage change in the overall proposed 1997 SNF market basket. If we used the AHE instead of the ECI, the average annual growth rate between 1995 and 2000 would have been higher by 0.1 percentage points per year. This difference reflects skill mix shifts that would be reflected in other factors of an update framework as conceptualized in section IV of the preamble. In addition, while the ECI is for all nursing homes, not just SNFs, 77 percent of employment in the nursing home industry in 1998 and 1999 was in SNFs. While this wage measure includes other nursing homes in addition to skilled nursing facilities, we believe it adequately reflects the wage changes occurring in SNFs. It is also the only acceptable statistical source for nursing home wages that met our criteria of reliability, timeliness, accessibility, and relevance.

B. Employee Benefits

For measuring price growth in the proposed 1997-based market basket, the percentage change in the ECI for benefits for private nursing homes is used. The ECI for benefits for private nursing homes is also a fixed-weight index that measures pure price change and is not affected by shifts in occupation. Again, we believe that the ECI for nursing homes is the most acceptable and appropriate benefit series available from reliable, timely, accessible, and relevant statistical sources.

C. All Other Expenses

• *Nonmedical professional fees:* The ECI for compensation for Private Industry Professional, Technical, and Specialty Workers is used to measure price changes in nonmedical professional fees.

• *Electricity:* For measuring price change in the electricity cost category, the PPI for Commercial Electric Power is used.

• *Fuels, nonhighway:* For measuring price change in the Fuels, Nonhighway cost category, the PPI for Commercial Natural Gas is used.

• *Water and Sewerage:* For measuring price change in the Water and Sewerage cost category, the CPI–U (Consumer Price Index for All Urban Consumers) for Water and Sewerage is used.

• *Food-wholesale purchases:* For measuring price change in the Food-wholesale purchases cost category, the PPI for Processed Foods is used.

• *Food-retail purchases:* For measuring price change in the Food-retail purchases cost category, the CPI–U for Food Away From Home is used. This reflects the use of contract food service by some SNFs.

• *Pharmaceuticals:* For measuring price change in the Pharmaceuticals cost category, the PPI for Prescription Drugs is used.

• *Chemicals:* For measuring price change in the Chemicals cost category, the PPI for Industrial Chemicals is used.

• *Rubber and Plastics:* For measuring price change in the Rubber and Plastics cost category, the PPI for Rubber and Plastic Products is used.

• *Paper Products:* For measuring price change in the Paper Products cost category, the PPI for Converted Paper and Paperboard is used.

• *Miscellaneous Products:* For measuring price change in the Miscellaneous Products cost category, the PPI for Finished Goods less Food and Energy is used. This represents a change from the 1992 SNF market basket, in which the PPI for Finished Goods is used. Both food and energy are already adequately represented in separate cost categories and should not also be reflected in this cost category.

• *Telephone Services:* The percentage change in the price of Telephone Services as measured by the CPI–U is applied to this component.

• *Labor-Intensive Services:* For measuring price change in the Labor-Intensive Services cost category, the ECI for Compensation for Private Service Occupations is used.

• *Non Labor-Intensive Services:* For measuring price change in the Non Labor-Intensive Services cost category, the CPI–U for All Items is used.

D. Capital-Related

All capital-related expense categories have the same price proxies as those used in the 1992-based SNF PPS market basket described in the May 12, 1998 **Federal Register** (63 FR 26252). The price proxies for the SNF capital-related expenses are described below:

• *Depreciation—Building and Fixed Equipment:* The Boeckh Institutional Construction Index for unit prices of fixed assets.

• *Depreciation—Movable Equipment:* The PPI for Machinery and Equipment.

• *Interest—Government and Nonprofit SNFs:* The Average Yield for Municipal Bonds from the Bond Buyer Index of 20 bonds. HCFA input price indexes, including this rebased SNF index, appropriately reflect the rate of change in the price proxy and not the level of the price proxy. While SNFs may face different interest rate levels than those included in the Bond Buyer Index, the rate of change between the two is not significantly different.

• *Interest—For-profit SNFs:* The Average Yield for Moody's AAA Corporate Bonds. Again, the proposed rebased SNF index focuses on the rate of change in this interest rate and not the level of the interest rate.

• *Other Capital-related Expenses:* The CPI–U for Residential Rent.

APPENDIX TABLE A–3.—A COMPARISON OF PRICE PROXIES USED IN THE 1992-BASED AND PROPOSED 1997-BASED SKILLED NURSING FACILITY MARKET BASKETS

Cost category	1992-based price proxy	1997-based price proxy
Wages and Salaries	ECI for Wages and Salaries for Private Nursing Homes	Same.
Employee Benefits	ECI for Benefits for Private Nursing Homes	Same.

APPENDIX TABLE A–3.—A COMPARISON OF PRICE PROXIES USED IN THE 1992-BASED AND PROPOSED 1997-BASED SKILLED NURSING FACILITY MARKET BASKETS—Continued

Cost category	1992-based price proxy	1997-based price proxy
Nonmedical professional fees	ECI for Compensation for Private Professional and Technical Workers.	Same.
Electricity	PPI for Commercial Electric Power	Same.
Fuels	PPI for Commercial Natural Gas	Same.
Water and sewerage	CPI–U for Water and Sewerage	Same.
Food—Wholesale purchases	PPI—Processed Foods	Same.
Food—Retail purchases	CPI–U—Food Away From Home	Same.
Pharmaceuticals	PPI for Prescription Drugs	Same.
Chemicals	PPI for Industrial Chemicals	Same.
Rubber and plastics	PPI for Rubber and Plastic Products	Same.
Paper products	PPI for Converted Paper and Paperboard	Same.
Miscellaneous products	PPI for Finished Goods	PPI for Finished Goods less Food and Energy.
Telephone services	CPI–U for Telephone Services	Same.
Labor-intensive services	ECI for Compensation for private service occupations	Same.
Non labor-intensive services	CPI–U for All Items	Same.
Depreciation: Building and Fixed Equipment	Boeckh Institutional Construction Index	Same.
Depreciation: Movable Equipment	PPI for Machinery and Equipment	Same.
Interest: Government and Nonprofit SNFs	Average Yield Municipal Bonds (Bond Buyer Index-20 bonds)	Same.
Interest: For-profit SNFs	Average Yield Moody's AAA Bonds	Same.
Other Capital-related Expenses	CPI–U for Residential Rent	Same.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance Program; and No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: March 8, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Dated: April 23, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–11560 Filed 5–9–01; 8:45 am]

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Federal Register

Thursday,
May 10, 2001

Part III

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program for Fiscal Year 2001; Request for Proposals and Request for Stakeholder Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program for Fiscal Year 2001; Request for Proposals and Request for Stakeholder Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of request for proposals and request for stakeholder input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is announcing the Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program for Fiscal Year (FY) 2001. Proposals are hereby requested from eligible institutions as identified herein for consideration of grant awards.

By this notice, CSREES also requests stakeholder input from any interested party regarding the FY 2001 Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program Request for Proposals (RFP) for use in development of any future RFPs for this program.

DATES: Proposals must be received on or before 5:00 P.M. July 6, 2001. Proposals received after this date will not be considered for funding.

Comments regarding this RFP are invited for six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Hand-delivered proposals (brought in person by the applicant or through a courier service) must be delivered to the following address: Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program; '' Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street S.W.; Washington, D.C. 20024. The telephone number is (202) 401–5048. Proposals transmitted via a facsimile (fax) machine or via e-mail will not be accepted.

Proposals submitted through the U.S. Postal Service should be sent to the following address: Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program; '' Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue S.W., Washington, D.C. 20250–2245.

Written stakeholder comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA-CSREES; STOP 2299; 1400 Independence Avenue S.W.; Washington, D.C. 20250–2299; or via e-mail to: RFP-OEP@reeusda.gov. (This e-mail address is intended only for receiving stakeholder comments regarding this RFP, and not for requesting information or forms.) In your comments, please state that your are responding to the FY 2001 Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey L. Gilmore, Higher Education Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2251; 1400 Independence Avenue S.W.; Washington, D.C. 20250–2251; telephone: (202) 720–1973; e-mail: jgilmore@reeusda.gov.

Stakeholder Input: CSREES is requesting comments regarding this solicitation of applications from any interested party. In your comments, please include the name of the program and the fiscal year RFP to which you are responding. These comments will be considered in the development of the next RFP for the program. Such comments will be used in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(c). Comments should be submitted as provided in the ''Addresses'' and ''Dates'' portions of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Legislative Authority

Authority for this program is contained in section 759 of Public Law 106–78, the FY 2000 ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act'' (7 U.S.C. 3242). In the FY 2001 ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act'' (Pub. L. 106–387), Congress appropriated $3,000,000 for a program of noncompetitive grants, to be awarded on an equal basis, to Alaska Native-Serving and Native Hawaiian-Serving Institutions to carry out higher education programs in the food and agricultural sciences.

B. Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.228, Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program.

C. Purpose of the Program

Grants will be made to eligible institutions for the purpose of promoting and strengthening the ability of Alaska Native-Serving Institutions and Native Hawaiian-Serving Institutions to carry out higher education programs in the food and agricultural sciences. Projects funded by this program in FY 2001 must be aimed at persons enrolled in or teaching at an institution of higher education. Grant funds also may be used for other education programs that have a direct and explicit connection to higher education, such as recruitment, mentoring, and support programs for under-represented students at the high school level in order to enhance education equity and prepare them for advanced study at the collegiate level and for careers related to the food, agricultural, and natural resource systems of the United States.

The use of grant funds to plan, acquire, or construct a building or facility is not allowed under this program. With prior approval, and in accordance with the cost principles set forth in OMB Circular No. A–21, some grant funds may be used for minor alterations, renovations, or repairs deemed necessary to retrofit existing teaching spaces in order to carry out a funded project. However, requests to use grant funds for such purposes must demonstrate that such expenditures are essential to achieving the major purpose for which the grant request is made.

Note that in FY 2001, research and community development projects will not be supported.

D. Eligible Institutions

Only public or private, nonprofit Alaska Native-Serving and Native Hawaiian-Serving Institutions of higher education that meet the definitions of Alaska Native-Serving Institution or Native Hawaiian-Serving Institution established in Title III, Part A of the Higher Education Act of 1965, as amended (20 U.S.C. section 1059d.) are eligible institutions under this program. Only individual institutions, including independent branch campuses, may apply for grant awards under this program. A higher education system, foundation, or district may not apply on behalf of individual institutions. An ''independent branch campus'' means a unit of a 2-year or 4-year institution of higher education that is geographically apart from the main campus, is permanent in nature, offers courses for credit and programs leading to an associate or bachelor's degree, and is autonomous to the extent that it has its own faculty and administrative or supervisory organization and its own budgetary and hiring authority.

E. Demonstration or Certification of Eligibility

At the time of application, each institution will be required to demonstrate or certify that it is an eligible institution under this program.

If an institution has received a ''Designation as an Eligible Institution'' letter for FY 2001 funding under the Title III, Part A, Alaska Native-Serving Institutions Program or the Native Hawaiian-Serving Institutions Program from the U.S. Department of Education, the institution may submit a copy of the letter along with its application to satisfy the demonstration of eligibility requirement.

If an institution currently has a Title III, Part A grant from the U.S. Department of Education that does not end prior to September 30, 2001, the institution may submit a copy of the ''Notice of Award'' letter for that grant along with its application to satisfy the demonstration of eligibility requirement.

Otherwise, an institution must submit a letter, signed by the institution's ''authorized organizational representative'' (AOR) certifying that it meets the requirements of an Alaska Native-Serving Institution or Native Hawaiian-Serving Institution as defined in the Higher Education Act of 1965, as amended (20 U.S.C. 1059d.). The institution's AOR is defined to mean the president, or chief executive officer or other designated official of the applicant organization, who has the authority to commit the resources of the organization. The AOR must certify that:

(1) The institution, or parent institution in the case of an independent branch campus, is legally authorized by the State in which it is located to provide an educational program for which it awards an associate's or bachelor's degree, or that it is a junior or community college;

(2) The institution, or parent institution in the case of an independent branch campus, is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority as to the quality of training offered, or making reasonable progress toward such accreditation;

(3) At least 50 percent of enrolled degree students are receiving need-based assistance under Title IV of the Higher Education Act, or that a substantial percentage of students are receiving Pell Grants in comparison with the percentage of students receiving Pell Grants at all similar institutions (institution of higher education, or junior or community college);

(4) Unless waived by the Secretary of Education, the average educational and general expenditures per full-time equivalent undergraduate student are low in comparison with the average educational and general expenditures per full-time equivalent student at institutions that offer similar instruction; and

(5) For an Alaska Native-Serving Institution, at the time of application, it has an enrollment of undergraduate students that is at least 20 percent Alaska Native students (where the term ''Alaska Native'' has the meaning given the term in section 9308 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7938]); or

(6) For a Native Hawaiian-Serving Institution, at the time of application, it has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students (where the term ''Native Hawaiian'' has the meaning given the term in section 9212 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7912]).

F. Available Funds

The $3,000,000 appropriated for FY 2001, is reduced by $6,600 to reflect the 0.22 percent government-wide recission, and $119,736 is retained by the Cooperative State Research, Education, and Extension Service (CSREES) for Federal Administration costs, leaving $2,873,664 for grant awards. Of this amount, half will be awarded non-competitively to eligible institutions in Alaska ($1,436,832) and half will be awarded non-competitively to eligible institutions in Hawaii ($1,436,832). CSREES has determined that the amounts available to each State will be allocated equally to all eligible institutions that submit grant applications in response to this notice.

G. Scope of Activities To Be Funded

Institutions receiving funds under this program must use the funds for the purpose of promoting and strengthening the abilities of Alaska Native-Serving or Native Hawaiian-Serving Institutions to carry out higher education programs in the food and agricultural sciences. CSREES intends this program to address higher education needs, as determined by each institution, within a broadly defined arena of food and agricultural sciences-related disciplines.

Food and agricultural sciences higher education programs are defined to include academic programs in agriculture, food and fiber, renewable natural resources, forestry, aquaculture, veterinary medicine, family and consumer sciences, home economics, nutrition and dietetics, and other higher education activities and fields of study related to the production, processing, marketing, distribution, conservation, utilization, consumption, and development of food and agriculturally related products and services.

Grants shall be used:

(1) To support the activities of consortia of Alaska Native-Serving or Native Hawaiian-Serving Institutions to enhance educational equity for under represented students;

(2) To strengthen institutional education capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agriculture sciences;

(3) To attract and support undergraduate and graduate students from under represented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level, and continuing with the provision of financial support for students through their attainment of a doctoral degree; or

(4) To facilitate cooperative initiatives between two or more Alaska Native-Serving or Native Hawaiian-Serving Institutions, or between Alaska Native-

Serving or Native Hawaiian-Serving Institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

H. Proposal Submission Limitations

Each institution may submit one application for funding.

I. Project Duration

A project proposal may request funding for a project period from 12 months up to 36 months duration (from one to three years).

J. Matching Requirement

CSREES encourages, but does not require, non-Federal matching support for this program. Documentation of matching support is neither required nor requested.

K. Number and Size of Awards

The number of grants awarded in FY 2001, and the amount of funds available to each institution in FY 2001, will depend on the number of institutions submitting grant applications in response to this notice. If all institutions currently eligible for Title III, Part A grants from the U.S. Department of Education submit acceptable applications to this program, CSREES estimates it will make 19 or 20 awards, one to each eligible institution, of $140,000 to $150,000 each. Application budgets should reflect these estimates.

L. Indirect Costs

Indirect costs are allowable costs under this program. The applicant should use the institution's approved negotiated instruction indirect cost rate (or research rate if there is no negotiated instruction rate). An institution may elect and is encouraged to request, commensurate with planned grant activities, an amount less than the full negotiated indirect cost rate.

M. Types of Proposals

An eligible institution or independent branch campus may submit a ''regular grant proposal'' for project activities to be undertaken principally on behalf of its own students or faculty, and to be managed primarily by its own personnel. CSREES estimates that awards for a regular grant proposal will be in the range of $140,000 to $150,000 each. Budget forms submitted with grant applications should reflect this estimate.

To facilitate inter-institutional cooperation and collaborative initiatives, two or more eligible institutions within a State may form a consortium and submit a ''consortium grant proposal.'' In such cases, one institution is to be designated as the ''lead institution.'' The lead institution will receive the award on behalf of all the consortium members and will be responsible for managing the grant. The other consortium members will be sub-grantees of the primary award. All consortium members must be eligible institutions under this program. A consortium grant proposal must contain a separate plan of work and a separate budget for each consortium member, as well as an overall project plan of work and overall budget from the lead institution. A consortium project will be awarded grant funds in proportion to the number of consortium members (e.g., approximately $140,000 to $150,000 times the number of institutions), and each consortium member is to receive funds on an equal basis. Budget forms should reflect these requirements and estimates.

N. Maximum Number of Grants or Sub-Grants Per Institution

Only one grant may be awarded to any single institution or eligible branch campus under the Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program. This ceiling includes sub-grant awards made under a consortium arrangement (i.e., an institution may not participate as a sub-grantee on a consortium grant and also receive a regular grant on its own). Individuals may participate in multiple grant projects and may be compensated through multiple subcontracts for consultant services.

O. Proposal Evaluation

Although project grants will be awarded non-competitively, all proposed projects will be reviewed by CSREES to determine whether the project plan of work is consistent with the guidelines contained in this notice. Each proposed project also will be evaluated for its technical merit by CSREES staff and by expert educators and scientists from other Federal agencies as needed. CSREES staff will consider the following criteria and weights when evaluating the technical merit of the proposals submitted:

Potential for Advancing the Quality of Education—20 Points

This criterion is used to assess the likelihood that the project will have an impact on the quality of food and agricultural sciences higher education by promoting and strengthening institutional capacities to meet clearly delineated needs. Elements include identification of needs, justification for the project, building institutional capacity, advancing education equity, continuation plans, innovation, multidisciplinary focus, and expected products and results.

Proposed Approach—35 Points

This criterion relates to the soundness of the proposed approach and includes objectives, plan of operation, timetable, evaluation and dissemination plans, and partnerships and collaborative efforts.

Key Personnel—20 Points

This criterion relates to the adequacy of the number and qualifications of the key persons who will carry out the project.

Institutional Commitment and Resources—15 Points

This criterion relates to the institution's commitment to the project and the adequacy of institutional resources available to carry out the project.

Budget and Cost-Effectiveness—10 Points

This criterion relates to the extent to which the total budget adequately supports the project and is cost-effective. Elements considered include the necessity and reasonableness of costs to carry out project activities and achieve project objectives; the appropriateness of budget allocations between the applicant and any collaborating institution(s); the adequacy of time committed to the project by key project personnel; and the degree to which the project maximizes the use of limited resources, optimizes educational value for the dollar, achieves economies of scale, leverages additional funds, includes sound quality-control measures, and focuses expertise and activity on targeted educational areas.

P. How To Obtain Application Materials

An Application Kit containing program application materials will be made available to eligible institutions upon request. These materials include all the application and budget forms, instructions, and other relevant information needed to prepare and submit grant applications. Copies of the Application Kit may be requested from the Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245. The telephone number is (202) 401–5048. When contacting the

Proposal Services Unit, please indicate that you are requesting forms for the FY 2001 Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 2001 Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Q. What To Submit

Each institution must submit the following forms, information, and documentation in an application package so that it arrives on or before the due date stated in this notice:

(1) A Form CSREES–712, ''Higher Education Proposal Cover Page,'' must be completed in its entirety, and one copy of the form must contain the pen-and-ink signatures of the project director(s) and AOR for the applicant institution;

(2) A ''Table of Contents,'' for ease in locating information in the application package, must be placed immediately following the proposal cover page;

(3) Documentation of eligibility, or a letter certifying eligibility signed by the AOR, for each institution that is a party to a grant application (i.e., documentation from each of the institutions participating in a consortium grant), as outlined in section E. ''Demonstration or Certification of Eligibility'' of this notice;

(4) A one page ''Project Summary'' outlining the need for the project and the plan of work, and including the name of the institution(s), project title, and project director(s);

(5) A detailed ''Plan of Work'' from the applicant institution (and from each of the other institutions participating in the proposal in the case of a consortium grant) limited to ten, double-spaced pages for each eligible institution that is a party to the grant application containing: (a) A general statement of the institution's long-range goals and how the proposed project aligns with those goals; (b) a statement detailing the higher education needs the project will address; (c) the objectives of the proposed project; (d) a justification for the project explaining how the proposed project will help the institution enhance its academic programs, and promote and strengthen its abilities to carry out higher education programs in the food and agricultural sciences as outlined in this notice; (e) a detailed explanation of the procedures that will be used to achieve the project objectives; (f) a description of the personnel who will conduct the project, including an outline of who will be responsible for each activity; (g) a detailed timeline showing the schedule for conducting the project; (h) the criteria and procedures to be used for tracking the progress and accomplishments of the project, including any data and methodologies that will be used to analyze the extent to which project objectives were met; (i) a list of expected project outcomes and products, including new courses, videos, CDs, other teaching materials, etc. and (j) plans for disseminating anticipated products and outcomes resulting from the project.

(6) A résumé or curriculum vita (C.V.) for each faculty member or staff person contributing significantly to the project (Form CSREES–708, ''Summary Vita'' may be used for this purpose);

(7) A Form CSREES–713, ''Higher Education Budget'' for each year of requested support, including budget forms for the lead institution and each consortium member for a consortium grant proposal;

(8) A summary budget, for multi-year and consortium projects, detailing requested support for the overall project period (use Form CSREES–713, ''Higher Education Budget'');

(9) A ''Budget Narrative'' providing detailed explanation and justification for each requested budget line item;

(10) A completed Form CSREES–663, ''Current and Pending Support'' for each key person who will be working on the project;

(11) A Form CSREES–1234, ''National Environmental Policy Act Exclusions Form'' covering planned project activities; and

(12) A Form CSREES–662, ''Assurance Statement(s)'' covering planned project activities.

Supplemental material such as photographs, journal reprints, brochures, and other pertinent materials deemed to be illustrative of major points of the proposal but unsuitable for inclusion in the proposal narrative itself, may be placed in an ''Appendix'' and attached to the end of the proposal.

R. Number of Copies to Submit

An original and six (6) copies of a proposal must be submitted. Proposals should contain all requested information when submitted. Each proposal should be typed on 8½″ x 11″ white paper, double-spaced, and on one side of the page only. Please note that the text of the proposal should be prepared using no type smaller than 12 point font size and one-inch margins. The entire proposal should be paginated. All copies of the proposal must be submitted in one package. Each copy of the proposal must be stapled securely in the upper left-hand corner (Do not bind).

S. Where and When To Submit

Hand-delivered proposals (brought in person by the applicant or through a courier service) must be received on or before 5 P.M. July 6, 2001, at the following address: Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW., Washington, DC 20024. The telephone number is (202) 401–5048. Proposals transmitted via a facsimile (fax) machine will not be accepted.

Proposals submitted through the U.S. Postal Service must be received on or before 5 P.M. July 6, 2001. Proposals submitted through the U.S. Postal Service should be sent to the following address: Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW., Washington, DC 20250–2245. The telephone number is (202) 401–5048.

T. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged by e-mail, therefore applicants are encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. The acknowledgment will contain an identifying proposal number. Once your proposal has been assigned a proposal number, please cite that number in future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the person listed in the **FOR FURTHER INFORMATION** section of this notice.

U. Intent To Submit a Proposal

For the FY 2001 competition, Form CSREES–711, ''Intent to Submit a Proposal,'' is NOT requested or required for the Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Grants Program.

V. Applicable Regulations and Other Federal Statutes

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR Part 1, subpart A—USDA implementation of Freedom of Information Act

7 CRF Part 1b—USDA Implementation of the National Environmental Policy Act

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e. Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308, as well as general policy requirements applicable to recipients of Departmental financial assistance

7 CFR Part 3017, as amended—USDA Implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

7 CFR Part 3018—USDA Implementation of Restrictions on Lobbying

7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Other Nonprofit Organizations

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15B (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

Done at Washington, DC, this 2nd day of May, 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

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H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the ''Goro Hokama Post Office Building''. (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the ''Ronald W. Reagan Post Office of West Melbourne, Florida''. (Apr. 12, 2001; 115 Stat. 9)

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