

DEPARTMENT OF STATE

[Public Notice 3013]

Notice of Proposed Revisions to Guidelines for the Implementation of Section 609 of Public Law 101-162 Relating to the Protection of Sea Turtles in Shrimp Trawl Fishing Operations

SUMMARY: Section 609 of Public Law 101-162 ("Section 609") provides that shrimp harvested with technology that may adversely affect certain species of sea turtles may not be imported into the United States. This import prohibition does not apply if the Department of State certifies to Congress that the harvesting nation has a regulatory program and an incidental take rate comparable to that of the United States, or, alternatively, that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. In response to recommendations of the Dispute Settlement Body of the World Trade Organization, the Department of State is proposing several revisions to the guidelines issued by the Department on August 28, 1998 for use in making such certifications. In order to comply with provisions of the Uruguay Round Trade Agreements Act, 16 U.S.C. 3533, the Department of State is requesting public comment on Sections II and III of this notice. Section I provides background information. Comments should be forwarded to the Office of Marine Conservation at the address listed below no later than 30 days after publication of this notice.

The August 28, 1998 guidelines contained additional information on the Department's policy with respect to certain aspects of the implementation of Section 609 for which no revisions are currently being proposed. The Department's policy with respect to those aspects, as set forth in the August 28, 1998 guidelines, remains unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly or Mr. David Hogan, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington D.C., telephone number (202) 647-2335. Comments should be submitted to the Department of State, Office of Marine Conservation, Room 5806, 2201 C Street NW., Washington, D.C. 20520.

I. Supplementary Information

A. Section 609

Section 609 provides that shrimp or products from shrimp harvested with

commercial fishing technology that may adversely affect certain species of sea turtles protected under U.S. law and regulations may not be imported into the United States. This import prohibition does not apply if the President certifies to Congress by May 1, 1991, and annually thereafter, that:

a. The government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

b. The average rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

c. The particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

The President has delegated to the Secretary of State the authority to make certifications pursuant to Section 609 (Memorandum of December 19, 1990; 56 FR 357; January 4, 1991).

The relevant species of sea turtles are: loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempi*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*) and hawksbill (*Eretmochelys imbricata*).

B. Summary of WTO Recommendations and Measures Taken To Implement Those Recommendations

On November 6, 1998, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) adopted a report of the WTO Appellate Body in a case brought by India, Malaysia, Pakistan and Thailand challenging the import prohibitions of Section 609. The Appellate Body report found that Section 609 itself was not inconsistent with U.S. obligations under the WTO Agreement and was, in fact, covered by the WTO provision relating to the conservation of exhaustible natural resources. At the same time, however, the Appellate Body report found that certain aspects of the manner in which Section 609 was being implemented, in their cumulative effect, were inconsistent with U.S. obligations under the WTO Agreement. The Appellate Body report recommended that the United States revise its implementation of Section 609 accordingly.

On November 25, 1998, the United States announced its intention to implement the recommendations and rulings of the DSB in a manner which is consistent not only with U.S. WTO

obligations, but also with the firm commitment of the United States to the protection of threatened and endangered species, including sea turtles.

The following paragraphs summarize the findings of the WTO Appellate Body report to which the revisions to the Guidelines proposed in this notice respond:

(1) *WTO Finding:* While Section 609 requires as a condition of certification that foreign programs for the protection of sea turtles in the course of shrimp trawl fishing be *comparable* to the U.S. program, the practice of the Department of State in making certification decisions was to require foreign programs to be *essentially the same* as the U.S. program. In assessing foreign programs, the Department of State should be more flexible in making such determinations and, in particular, should take into consideration different conditions that may exist in the territories of those other nations.

Analysis: In response to this recommendation, the proposed revisions to the guidelines make clear that the Department of State will fully consider any evidence that another nation may present that its program to protect sea turtles in the course of shrimp trawl fishing is comparable to the U.S. program. In reviewing such evidence, the Department will take into account any demonstrated differences in foreign shrimp fishing conditions, to the extent that such differences may affect the extent to which sea turtles are subject to capture and drowning in the commercial shrimp trawl fisheries. The Department will also take such differences into account in making related determinations under Section 609.

(2) *WTO Finding:* The certification process under Section 609 is neither transparent nor predictable and denies to exporting nations basic fairness and due process. There is no formal opportunity for an applicant nation to be heard or to respond to arguments against it. There is no formal written, reasoned decision. But for notice in the **Federal Register**, nations are not notified of decisions specifically. There is no procedure for review of, or appeal from, a denial of certification.

Analysis: In response to this finding, the proposed revisions to the guidelines institute a broad range of procedural changes in the manner in which the Department of State will make certification decisions under Section 609. The intention is to create a more transparent and predictable process for reviewing foreign programs and for making decisions on certifications and other related matters. The proposed

revisions ensure that the governments of harvesting nations will be notified on a timely basis of all pending and final decisions and are provided a meaningful opportunity to be heard and to present any additional information relevant to the certification decision. The governments of harvesting nations that are not granted a certification shall receive a full explanation of the reasons that the certification was denied. Steps that the government must take to receive a certification in the future shall be clearly identified. The following paragraphs summarize certain other findings of the WTO Appellate Body report to which the United States Government is responding, or has responded.

(3) *WTO Finding:* At the time the WTO complaint arose, the United States did not permit imports of shrimp harvested by vessels using TEDs comparable in effectiveness to those used in the United States, unless the harvesting nation was certified pursuant to Section 609. In other words, shrimp caught using methods identical to those employed in the United States had been excluded from the United States market solely because they had been caught in waters of uncertified nations.

Analysis: For reasons unrelated to the WTO case, the Department of State modified its implementing Guidelines on August 28, 1998 to allow the importation of shrimp harvested by vessels using TEDs, even if the exporting nation is not certified pursuant to Section 609. This policy had, in fact, been in place as of April 19, 1996, but had been overturned by a domestic court ruling that was subsequently vacated. The provisions of the August 28, 1998 Guidelines pertaining to the importation of such shrimp remain in effect.

(4) *WTO Finding:* The United States failed to engage the nations that brought the complaint, as well as other WTO Members exporting shrimp to the United States, in serious across-the-board negotiations, apart from negotiations on the Inter-American Convention for the Protection and Conservation of Sea Turtles, for the purpose of concluding agreements to conserve sea turtles before enforcing the import prohibition on those other Members.

Analysis: As early as 1996, the United States proposed to governments in the Indian Ocean region the negotiation of an agreement to protect sea turtles in that region, but received no positive response. In 1998, even before the WTO Appellate Body issued its report, the United States reiterated its desire to enter into such negotiations with

affected governments, including those that had brought the WTO complaint. During the summer of 1998, the United States informally approached several governments in the Indian Ocean region, as well as numerous non-governmental organizations, in an effort to get such negotiations underway. On October 14, 1998, following the issuance of the Appellate Body report, but before its adoption by the DSB, the Department of State formally renewed this proposal to high-level representatives of the embassies of the four complainants in Washington, D.C., and delivered the same message to a wide range of nations in the Indian Ocean region through our embassies abroad. In each case, the United States presented a list of "elements" that we believe could form the basis of such an agreement. We also made clear the willingness of the United States to support the negotiating process in a number of ways. We are continuing to pursue this initiative.

(5) *WTO Finding:* As compared to the 14 nations of the Caribbean and western Atlantic that were initially affected by Section 609, the United States provided less technical assistance to those nations that first became affected by the law at the end of 1995 as a result of the decision of the U.S. Court of International Trade.

Analysis: The United States has renewed, and hereby reiterates, its offer of technical training in the design, construction, installation and operation of TEDs to any government that requests it. Any government that wants to receive such training need only make such a request to the United States in writing, through diplomatic channels. The United States will make every effort to meet such requests. Training programs will be scheduled on a first come, first served basis, although special efforts will be made to accommodate nations whose governments are making good faith efforts to adopt and maintain nation-wide TEDs programs and who have not previously received such training. In this way, the United States hopes to create an additional incentive in favor of such programs.

C. The U.S. Program

Since certification decisions under Section 609(b)(2) (A) and (B) are based on comparability with the U.S. program governing the incidental taking of sea turtles in the course of shrimp harvesting, an explanation of the components of that program follows. The U.S. program requires that commercial shrimp trawl vessels use TEDs approved in accordance with standards established by the U.S. National Marine Fisheries Service

(NMFS), in areas and at times when there is a likelihood of intercepting sea turtles. The goal of this program is to protect sea turtle populations from further decline by reducing the incidental mortality of sea turtles in commercial shrimp trawl operations.

The commercial shrimp trawl fisheries in the United States in which there is a likelihood of intercepting sea turtles occur in the temperate waters of the Gulf of Mexico and the Atlantic Ocean from North Carolina to Texas. With very limited exceptions, all U.S. commercial shrimp trawl vessels operating in these waters must use approved TEDs at all times and in all areas. The only exceptions to this requirement are as follows:

a. Vessels equipped exclusively with wing nets, skimmer trawls, and pusher-head trawls when used in conjunction with certain restricted tow times are not required to use TEDs because their operations do not pose a threat to sea turtles. Vessels equipped with barred beam trawls and/or barred roller trawls are not required to use TEDs. Single try nets (with less than a twelve foot headrope and fifteen foot rope) are not required to use TEDs.

b. Vessels whose nets are retrieved exclusively by manual rather than mechanical means are not required to use TEDs because the lack of a mechanical retrieval system necessarily limits tow times to a short duration so as not to pose a threat of the incidental drowning of sea turtles. This exemption applies only to vessels that have no power or mechanical-advantage trawl retrieval system.

c. In exceptional circumstances, where NMFS determines that the use of TEDs would be impracticable because of special environmental conditions such as the presence of algae, seaweed, or debris, or that TEDs would be ineffective in protecting sea turtles in particular areas, vessels are permitted to restrict tow times instead of using TEDs. Such exceptions are generally limited to two periods of 30 days each. In practice, NMFS has permitted such exceptions only rarely.

With these limited exceptions, all other commercial shrimp trawl vessels operating in waters subject to U.S. jurisdiction in which there is a likelihood of intercepting sea turtles must use TEDs at all times. For more information on the U.S. program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting, see 50 CFR 227.17 and 50 CFR 227.72(e).

II. Section 609

A. Shrimp Harvested in a Manner Not Harmful to Sea Turtles

The Department of State has determined that the import prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtles:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in pond prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices or by vessels using gear that, in accordance with the U.S. program described above, would not require TEDs.

d. Shrimp harvested in any other manner or under any other circumstances that the Department of State may determine, following consultation with the NMFS, does not pose a threat of the incidental taking of sea turtles. The Department of State shall publish any such determinations in the **Federal Register** and shall notify affected foreign governments and other interested parties directly.

B. Shrimp Exporter's/Importer's Declaration

The requirement that all shipments of shrimp and products of shrimp imported into the United States must be accompanied by a declaration (DSP-121, revised) became effective as of May 1, 1996 and remains effective. The DSP-121 attests that the shrimp accompanying the declaration was harvested either under conditions that do not adversely affect sea turtles (as defined above) or in waters subject to the jurisdiction of a nation currently certified pursuant to Section 609. All declarations must be signed by the exporter. The declaration must accompany the shipment through all stages of the export process, including any transformation of the original product and any shipment through any intermediary nation. As before, the Department of State will make copies of the declaration readily available. Local reproduction of the declarations is fully acceptable.

The requirement that a government official of the harvesting nation not currently certified pursuant to Section 609 must also sign the DSP-121 asserting that the accompanying shrimp was harvested under conditions that do

not adversely affect sea turtles species remains effective. In order to protect against fraud, the Department will continue to conduct periodic reviews of the systems that such foreign governments have put in place to verify the statements made on the DSP-121 form.

Date of Export. Import prohibitions shall not apply to shipments of shrimp and products of shrimp with a date of export falling at a time in which the harvesting nation is currently certified pursuant to Section 609.

Country of Origin. For purposes of implementing Section 609, the country of origin shall be deemed to be the nation in whose waters the shrimp is harvested, whether or not the harvesting vessel is flying the flag of another nation.

C. Review of Information

The government of any harvesting nation may request that the Department of State review any information regarding the particular shrimp fishing environment and conditions in that nation, or within a distinct geographic region of that nation, in making decisions pursuant to Section 609. Such information may be presented to demonstrate, *inter alia*:

(1) That some portion of the shrimp intended to be exported from that nation to the United States is harvested under one of the conditions identified above as not adversely affecting species of sea turtles;

(2) That the government of that nation has adopted a regulatory program governing the incidental taking of sea turtles in the course of commercial shrimp trawl fishing that is comparable to the U.S. program and, therefore, that the nation is eligible for certification under Section 609(b)(2)(A) and (B); or

(3) That the fishing environment in that nation does not pose a threat of the incidental taking of sea turtles and, therefore, that the nation is eligible for certification under Section 609(b)(2)(C).

Such information should be based on empirical data supported by objective scientific studies of sufficient duration and scope to provide the information necessary for a reliable determination. In addition, information submitted to support a request for any such determination should include available biological and commercial data that are relevant to determining whether or not the fishing environment of the harvesting nation is likely to pose a threat to sea turtles. Studies intended to show the rate of incidental taking of sea turtles in a given shrimp fishery should, at a minimum, contain data for an entire fishing season. Upon request, the United

States will review and provide comments on a planned or existing study with respect to sample size, scientific methodology and other factors that affect whether such a study provides a sufficient basis for making a reliable determination.

The Department will fully review and take into consideration all such information and, in consultation with the NMFS, respond in writing to the government of the harvesting nation within 120 days from the date on which the information is received.

The Department, in consultation with the NMFS, will also take into consideration information on the same subjects that may be available from other sources, including but not limited to academic and scientific organizations, intergovernmental organizations and non-governmental organizations with recognized expertise in the subject matter.

III. Guidelines for Making Certification Decisions

A. Certification Pursuant to Section 609(b)(2)(C)

Section 609(b)(2)(C) authorizes the Department of State to certify a harvesting nation if the particular fishing environment of the harvesting nation does not pose a threat of incidental taking of sea turtles in the course of commercial shrimp trawl harvesting. Accordingly, the Department shall certify any harvesting nation meeting the following criteria without the need for action on the part of the government of the harvesting nation:

a. Any harvesting nation without any of the relevant species of sea turtles occurring in waters subject to its jurisdiction;

b. Any harvesting nation that harvests shrimp exclusively by means that do not pose a threat to sea turtles, e.g., any nation that harvests shrimp exclusively by artisanal means;

c. Any nation whose commercial shrimp trawling operations take place exclusively in waters subject to its jurisdiction in which sea turtles do not occur.

B. Certification Pursuant to Section 609(b)(2) (A) and (B)

Under Section 609(b)(2), the Department of State shall certify any other harvesting nation by May 1st of each year if "the government of [that] nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States" and if "the average

rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting."

a. *Regulatory Program.* The Department of State shall assess regulatory programs, as described in any documentary evidence provided by the governments of harvesting nations, for comparability with the U.S. program.

Where standard otter trawl nets are used in shrimp fisheries in waters where sea turtles are present, sea turtles will inevitably be captured and drowned. The Department of State is presently aware of no measure or series of measures that can minimize the capture and drowning of sea turtles in such nets that is comparable in effectiveness to the required use of TEDs.

1. If the government of the harvesting nation seeks certification on the basis of having adopted a TEDs program, certification shall be made if a program includes the following:

(i) *Required Use of TEDs*—a requirement that all commercial shrimp trawl vessels operating in waters in which there is a likelihood of intercepting sea turtles use TEDs at all times. TEDs must be comparable in effectiveness to those used in the United States. Any exceptions to this requirement must be comparable to those of the U.S. program described above; and

(ii) *Enforcement*—a credible enforcement effort that includes monitoring for compliance and appropriate sanctions.

2. If the government of a harvesting nation demonstrates that it has implemented and is enforcing a comparably effective regulatory program to protect sea turtles in the course of shrimp trawl fishing without the use of TEDs, that nation will also be eligible for certification. As described above, such a demonstration would need to be based on empirical data supported by objective scientific studies of sufficient duration and scope to provide the information necessary for a reliable determination. In reviewing any such information, the Department of State will take fully into account any demonstrated differences between the shrimp fishing conditions in the United States and those in other nations, as well as information available from other sources.

b. *Incidental Take.* Average incidental take rates will be deemed comparable if the harvesting nation requires the use of TEDs in a manner comparable to that of the U.S. program or, as described above, otherwise demonstrates that it has

implemented a comparably effective program to protect sea turtles in the course of shrimp trawl fishing without the use of TEDs.

c. *Additional Considerations.* 1. *Form*—A regulatory program may be in the form of regulations promulgated by the government of the harvesting nation and having the force of law. If the legal system and industry structure of the harvesting nation permit voluntary arrangements between government and the fishing industry, such an arrangement may be acceptable so long as there is a governmental mechanism to monitor compliance with the arrangement and to impose penalties for non-compliance, and reliable confirmation that the fishing industry is complying with the arrangement.

2. *Documentary Evidence*—Documentary evidence may be in the form of copies of the relevant laws, regulations or decrees. If the regulatory program is in the form of a government-industry arrangement, then a copy of the arrangement is required. Harvesting nations are encouraged to provide, to the extent practicable, information relating to the extent of shrimp harvested by means of aquaculture.

3. *Additional Sea Turtle Protection Measures*—The Department of State recognizes that sea turtles require protection throughout their life cycle, not only when they are threatened during the course of commercial shrimp trawl harvesting. In making certification determinations, the Department shall also take fully into account other measures the harvesting nation undertakes to protect sea turtles, including national programs to protect nesting beaches and other habitat, prohibitions on the directed take of sea turtles, national enforcement and compliance programs, and participation in any international agreement for the protection and conservation of sea turtles. In assessing any information provided by the governments of harvesting nations in this respect, the Department of State will rely on the technical expertise of NMFS and, where appropriate, the US Fish and Wildlife Service to evaluate threats to sea turtles and the effectiveness of sea turtle protection programs.

4. *Consultations*—The Department of State will engage in ongoing consultations with the governments of harvesting nations. The Department recognizes that, as sea turtle protection programs develop, additional information will be gained about the interaction between sea turtle populations and shrimp fisheries.

These Guidelines may be revised in the future to take into consideration that

and other information, as well as to take into account changes in the U.S.

program. These Guidelines may also be revised as a result of pending domestic litigation. In addition, the Department will continue to welcome public input on the best ways to implement both these Guidelines and Section 609 as a whole and may revise these guidelines in the future accordingly.

C. Timetable and Procedures for Certification Decisions

Each year the Department will consider for certification: (a) Any nation that is currently certified, and (b) any other shrimp harvesting nation whose government requests such certification in a written communication to the Department of State through diplomatic channels prior to September 1 of the preceding year. Any such communication should include any information not previously provided that would support the request for certification, including the information specified above under Review of Information.

Between September 1 and March 1, U.S. officials will seek to visit those nations requesting certifications pursuant to Section 609(b)(2)(A) and (B). Each visit will conclude with a meeting between the U.S. officials and government officials of the harvesting nation to discuss the results of the visit and to review any identified deficiencies regarding the harvesting nation's program to protect sea turtles in the course of shrimp trawl fishing.

By March 15, the Department of State will notify in writing through diplomatic channels the government of each nation that, on the basis of available information, including information gathered during such visits, does not appear to qualify for certification. Such notification will explain the reasons for this preliminary assessment, suggest steps that the government of the harvesting nation can take in order to receive a certification and invite the government of the harvesting nation to provide, by April 15, any further information. If the government of the harvesting nation so requests, the Department of State will schedule face-to-face meetings between relevant U.S. officials and officials of the harvesting nation to discuss the situation.

Between March 15 and May 1, the Department of State will actively consider any additional information that the government of the harvesting nation believes should be considered by the Department in making its determination concerning certification.

By May 1 of each year the Department of State will make formal decisions on certification. The governments of all nations that have requested certification will be notified in writing of the decision promptly through diplomatic channels. In the case of those nations for which certification is denied, such notification will again state the reasons for such denial and the steps necessary to receive a certification in the future.

The government of any nation that is denied a certification by May 1 may, at any time thereafter, request reconsideration of that decision. When the United States receives information from that government demonstrating that the circumstances that led to the denial of the certification have been corrected, U.S. officials will visit the exporting nation as early as a visit can be arranged. If the visit demonstrates that the circumstances that led to the denial of the certification have indeed been corrected, the United States will certify that nation immediately thereafter.

D. Special Timetable for 1999

The United States and the four nations that brought the WTO complaint have agreed that the United States would implement the recommendations and rulings of the DSB within 13 months of the adoption of the WTO Appellate Body report by the DSB, i.e., by December 6, 1999.

Accordingly, the Department of State hereby establishes the following timetable to apply in 1999 only:

After the date of publication of the revised guidelines, the government of any harvesting nation that was denied certification by May 1, 1999, may request to be certified in accordance with these guidelines in a written communication to the Department of State through diplomatic channels prior to August 15, 1999.

Not later than October 15, 1999, U.S. officials will seek to visit to those nations requesting such certifications. Each visit will conclude with a meeting between the U.S. officials and government officials of the harvesting nation to discuss the results of the visit and to review any identified deficiencies regarding the harvesting nation's program to protect sea turtles in the course of shrimp trawl fishing.

By November 1, 1999, the Department of State will notify in writing through diplomatic channels the government of any nation that, on the basis of available information, including information gathered during such visits, does not appear to qualify for certification. Such notification will explain the reasons for this preliminary assessment, suggest

steps that the government of the harvesting nation can take in order to receive a certification and invite the government of the harvesting nation to provide, by November 15, 1999, any further information.

Between November 15 and December 6, 1999, the Department of State will actively consider any additional information that the government of the harvesting nation believes should be considered by the Department in making its determination concerning certification.

By December 6, 1999, the Department of State will make formal decisions on certification. The governments of all nations that have requested certification under the special 1999 timetable will be notified in writing of the decision promptly through diplomatic channels. In the case of those nations for which certification is denied, such notification will again state the reasons for such denial and the steps necessary to receive a certification in the future.

The government of any nation that is denied a certification by December 6, 1999, may, at any time thereafter, request reconsideration of that decision. When the United States receives information from that government demonstrating that the circumstances that led to the denial of the certification have been corrected, U.S. officials will visit the exporting nation as early as a visit can be arranged. If the visit demonstrates that the circumstances that led to the denial of the certification have indeed been corrected, the United States will certify that nation immediately thereafter.

E. Related Determinations

As noted above, any harvesting nation that is not certified on May 1 of any year may be certified prior to the following May 1 at such time as the harvesting nation meets the criteria necessary for certification. Conversely, any harvesting nation that is certified on May 1 of any year may have its certification revoked prior to the following May 1 at such time as the harvesting nation no longer meets those criteria.

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As a matter relating to the foreign affairs function, these guidelines are exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12866, and is not subject to the requirements of the Regulatory Flexibility Act.

March 19, 1999.

R. Tucker Scully,

Acting Deputy Assistant Secretary for Oceans, Fisheries and Space.

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BILLING CODE 4710-09-P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, As amended by Pubic Law 104-13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402-2801; (423) 751-2523.

Comments should be sent to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than April 26, 1999.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection:

Section 26a Permit Application.

Frequency of Use: On occasion.

Type of Affected Public: Individuals

or households, state or local governments, farms, businesses, or other for-profit Federal agencies or employees, non-profit institutions, small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 2,600.

Estimated Total Annual Burden Hours: 3,900.

Estimated Average Burden Hours Per Response: 1.5.

Need For and Use of Information: Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam,