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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–041–2]

Change in Disease Status of Estonia With Regard to Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to add Estonia to the list of regions that are considered free of rinderpest and foot-and-mouth disease. We are taking this action because we have determined that Estonia is free of rinderpest and foot-and-mouth disease. We are also amending the regulations to add Estonia to the list of regions that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries. These actions update the disease status of Estonia with regard to rinderpest and foot-and-mouth disease while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from Estonia.

EFFECTIVE DATE: June 14, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Hatim Gubara, Staff Veterinarian, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–5538.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other parts of the world not listed. Section 94.11 of the regulations lists regions of the world that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On February 1, 2002, we published in the **Federal Register** (67 FR 4927–4930, Docket No. 01–041–1) a proposal to amend the regulations to add Estonia to the list in § 94.1(a) of regions that are considered free of rinderpest and FMD. In that document, we also proposed to add Estonia to the list in § 94.11(a) of regions declared free of rinderpest and FMD, but that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with rinderpest- or FMD-affected countries.

We solicited comments concerning our proposal for 60 days ending April 2, 2002. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule adds Estonia to the list of regions considered free of rinderpest and FMD. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule adds Estonia to the list of regions that are considered free of rinderpest and FMD and to the list of regions subject to certain restrictions because of their proximity to or trading relationships with rinderpest-or FMD-affected countries. These actions update the disease status of Estonia with regard to rinderpest and FMD while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from Estonia.

We do not expect that this rule will have a significant economic impact on any entities, large or small, in the United States. Estonia does not produce sufficient quantities of ruminants or swine, or products of ruminants or swine, to significantly affect the U.S. market even if all of Estonia's production were exported to the United States.[1] For example, Estonia's production of beef and veal, mutton and lamb, and pigmeat (51,120 metric tons) was equivalent to less than 0.5 percent of those commodities produced in the United States in 2001. During the same period, Estonia's stock of live cattle, sheep, and pigs (585,200 head) was equivalent to less than 0.5 percent of comparable stock in the United States. Similarly, Estonia's milk production (690,000 metric tons) was less than 1 percent of the total production of milk in the United States in 2001.[2]

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. Given the small amount of Estonia's production, domestic producers in the United States are unlikely to be affected in any measurable way. Other entities that might be affected are brokers, agents,

[1] Realistically, not all of Estonia's production would be exported to the United States. Some of Estonia's production will be consumed domestically and some will be exported to countries other than the United States.

[2] Source: Food and Agriculture Organization of the United Nations.

and others in the United States who could become involved in any future importation and sale of ruminants or swine or products of ruminants or swine from Estonia. The number and size of those entities is unknown, but it is reasonable to assume that most of those entities would be small according to the standards set by the U.S. Small Business Administration. However, for the reasons discussed above, any economic impact on those entities, as well as any other affected entities in the United States, should be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal disease, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding, in alphabetical order, the word "Estonia,".

§ 94.11 [Amended]

3. In 94.11, paragraph (a), the first sentence is amended by adding, in alphabetical order, the word "Estonia,".

Done in Washington, DC, this 23rd day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13529 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 02–08]

RIN 1557–AC07

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulation that addresses assessments for independent trust banks. The final rule updates the regulation to reference the appropriate portion of new forms issued by the Federal Financial Institutions Examination Council (FFIEC), which replace the FFIEC form currently referenced in the regulation.

EFFECTIVE DATE: June 1, 2002.

FOR FURTHER INFORMATION CONTACT: Andra Shuster, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 2002, the OCC published a notice of proposed rulemaking in the **Federal Register** (67 FR 20466) to amend the OCC's assessment regulation for independent trust banks. The comment period ended on May 17, 2002. We received no comments on the proposal, and are therefore adopting it without change except for the addition of a minor technical amendment.

Description of Rule

Section 8.6(c) of the OCC's regulations provides that assessments for independent trust banks will include a "managed asset component" in addition to the assessments calculated under § 8.2. Under § 8.6(c)(1)(i), all independent trust banks must pay a minimum fee. In addition, under § 8.6(c)(1)(ii), independent trust banks with "managed assets" in excess of $1 billion must pay an additional amount. Currently, the regulation defines the asset base upon which the additional assessment is applied by reference to Schedule A, Line 18 of the Annual Report of Trust Assets (FFIEC Form 001). FFIEC Form 001 was replaced effective December 31, 2001 by FFIEC Forms 031 and 041, Schedule RC–T—Fiduciary and Related Assets.

The proposal amended the definition of "Trust assets" in § 8.6(c)(3)(iv). The defined term was changed to "Fiduciary and related assets" to reflect the terminology used in Schedule RC–T of FFIEC Forms 031 and 041. The proposal also replaced the reference to FFIEC Form 001 with a reference to assets reported on Schedule RC–T of FFIEC Forms 031 and 041, any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees. "Fiduciary and related assets" reported on Schedule RC–T reflect the types of assets, managed in a trust or fiduciary-related capacity, covered by the now-outdated cross-reference in the current rule, plus certain other similarly managed assets (corporate trust and agency accounts) not reported on the previous FFIEC form due to imprecisions in the instructions to the form.

The proposal also removed references in §§ 8.6(c)(1) and (c)(1)(ii) to "managed assets" and "trust assets under management," and replaced them with the new term "fiduciary and related assets," which is used in Schedule RC–T of FFIEC Forms 031 and 041.

The final rule adopts all of these amendments to part 8 without change.

The proposal also made a technical correction to § 8.1, correcting the reference to "12 U.S.C. 93A" to "12 U.S.C. 93a." The final rule adopts this amendment and also corrects § 8.1 by adding 12 U.S.C. 1867 and 3108 to the list of authorities.

Effective Date

Any new regulation that imposes "additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form," unless certain exceptions apply. Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, sec. 302(b) (September 23, 1994). This rulemaking imposes no such additional reporting, disclosure, or other requirements. Accordingly, the requirement to delay the effective date until the first day of

the next calendar quarter does not apply. Further, pursuant to 5 U.S.C. 553(d), the publication of a substantive rule generally shall not be made less than 30 days before its effective date unless certain exceptions apply. One such exception contained in 5 U.S.C. 553(d)(3) permits an agency to publish a rule that is immediately effective if the agency finds good cause to do so and publishes its reasoning with the issuance of the rule. It is necessary for this final rule to become effective on June 1, 2002 in order to avoid inconsistency between the current OCC regulation and the form independent trust banks are required to use to calculate the next semi-annual assessment. Notice of the assessment will be given on June 1, 2002 and the assessment will be due by July 31, 2002.

Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes will have a "significant economic impact" on a "substantial number of small entities." 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify.

The OCC has reviewed the impact this final rule will have on small national banks. For purposes of this Regulatory Flexibility Analysis and final regulation, the OCC defines "small national banks" to be those banks with less than $100 million in total assets. Based on that review, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that only 10 trust banks with total assets of less than $100 million will likely be affected. The OCC believes, as a result, that the rulemaking will not have an impact on a substantial number of small institutions.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a 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 budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 8 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 8—ASSESSMENT OF FEES

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

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

2. Section 8.1 is revised to read as follows:

§ 8.1 Scope and application.

The assessments contained in this part are made pursuant to the authority contained in 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

3. In § 8.6:

A. Paragraph (c)(1) is amended by removing the term "managed" and adding in its place "fiduciary and related"; and

B. Paragraphs (c)(1)(ii) and (c)(3)(iv) are revised to read as follows:

§ 8.6 Fees for special examinations and investigations.

* * * * *

(c) * * *

(1) * * *

(ii) *Additional amount for independent trust banks with fiduciary and related assets in excess of $1 billion.* Independent trust banks with fiduciary and related assets in excess of $1 billion will pay an amount that exceeds the minimum fee. The amount to be paid will be calculated by multiplying the amount of fiduciary and related assets by a rate or rates provided by the OCC in the Notice of Comptroller of the Currency Fees.

* * * * *

(3) * * *

(iv) *Fiduciary and related assets* are those assets reported on Schedule RC–T of FFIEC Forms 031 and 041, Line 9 (columns A and B) and Line 10 (column B), any successor form issued by the FFIEC, and any other fiduciary and related assets defined in the Notice of Comptroller of the Currency Fees.

Dated: May 24, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 02–13556 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–33–P

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Final decision to waive the Nonmanufacturer Rule.

SUMMARY: This document advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted. The basis for waivers is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: June 14, 2002.

FOR FURTHER INFORMATION: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC, 20416 Tel:(202) 619–0422

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small business or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b) and Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in

the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months.

The SBA defines "class of products" based on six digit coding systems. The North American Industry Classification System (NAICS) replaced the Standard Industrial Classification (SIC) code. The second is the Product and Service Code established by the Federal Procurement Data System.

This document waives the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted, North American Industry Classification System (NAICS) 333613.

Documents proposing to waive the nonmanufacturer rule for unmounted and bearings mounted, on April 4, 2002 (67 FR 16063) and on May 8, 2002 (67 FR 30820). No comments were received.

Luz A. Hopewell,

Associate Administrator for Government Contracting.

[FR Doc. 02–13455 Filed 5–29–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–69–AD; Amendment 39–12762; AD 2002–11–01]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland Model EC135 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter Deutschland (Eurocopter) Model EC135 helicopters with Turbomeca Arrius 2B1 engines installed. This action requires modifying the engine electrical control unit (FADEC) software and the collective linear transducer (LVDT). This amendment is prompted by a parameter discrepancy within the engine fuel main metering unit that is transmitted to the FADEC. This condition, if not corrected, could result in deactivation of the engine main fuel-metering valve, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter.

DATES: Effective June 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 29, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–69–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov* telephone (972) 641–3460, fax (972) 641–3527. The Turbomeca service information may be obtained from Turbomeca, DSO/T/NORIA Arrius 2 B1 TU 19C, 64 511 Bordes Cedex, France. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on Eurocopter Model EC135 helicopters. The LBA advises that installing modified engine-control software is necessary to sustain automatic engine control.

Eurocopter has issued Alert Service Bulletin No. EC135–71A–019, dated August 30, 2001, which specifies modifications to the FADEC software and modifications to the LVDTs. Turbomeca has issued Service Bulletin No. 319 73 2019, dated March 26, 2001, which provides instructions for replacing the FADEC, or alternatively modifying the FADEC software. The LBA classified these service bulletins as mandatory, and issued AD 2001–304/2, effective October 19, 2001, to ensure the continued airworthiness of these helicopters in the Federal Republic of Germany.

This helicopter model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, 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.

This unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent deactivation of the engine main fuel-metering valve, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter. This AD requires modifying the FADEC software and the LVDTs. The actions must be accomplished in accordance with the service bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the engine power and controllability of the helicopter. Therefore, modifying the FADEC software and the LVDTs are required within 50 hours time-in-service, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 22 helicopters will be affected by this AD, that it will take approximately 10 work hours to accomplish the modifications, and that the average labor rate is $60 per work hour. The manufacturer has stated that parts will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $13,200.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted 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.

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 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 mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–69–AD." The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 a new airworthiness directive to read as follows:

2002–11–01 Eurocopter Deutschland: Amendment 39–12762. Docket No. 2001–SW–69–AD.

Applicability: Model EC135 helicopters with Turbomeca Arrius 2B1 engines installed, certificated in any category.

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

Compliance: Required within 50 hours time-in-service, unless accomplished previously.

To prevent deactivation of the engine main fuel-metering valve, an engine electrical control unit (FADEC) fail caution indication display to the pilot, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the FADEC software in accordance with the Operating Instructions, paragraph 2.B., of Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001.

(b) Modify the collective linear transducers (LVDTs) in accordance with the Accomplishment Instructions, paragraph 3.C., of Eurocopter Alert Service Bulletin EC135–71A–019, dated August 30, 2001.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

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

(e) The modifications shall be done in accordance with Eurocopter Alert Service Bulletin No. EC135–71A–019, dated August 30, 2001, and Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001. These incorporations by reference were 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527; and Turbomeca, DSO/T/NORIA Arrius 2 B1 TU 19C, 64 511 Bordes Cedex, France. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 14, 2002.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 2001–304/2, dated October 19, 2001.

Issued in Fort Worth, Texas, on May 20, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–13290 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–5]

Amendment to Class E Airspace; Fremont, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Fremont, NE in order to provide a safer Instrument Flight Rules (IFR) environment at Fremont Municipal Airport, Fremont NE. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 13, Amendment 3 Standard Instrument Approach Procedure (SIAP) and VHF Omnidirectional Range (VOR) RWY 13, Amendment 1 SIAP to serve Fremont Municipal Airport, Fremont NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedures in instrument

conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, October 3, 2002.

Comments fro inclusion in the Rules Docket must be received on or before July 31, 2002.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 02–ACE–5, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA has developed NDB RWY 13, Amendment 3 and VOR RWY 13, Amendment 1 SIAPs to serve Fremont Municipal Airport, Fremont NE. The modification of Class E airspace at Fremont NE will provide additional controlled airspace at and above 700 feet AGL in order to contain the amended SIAPs within controlled airspace, and thereby enhance safety and efficiency of IFR flight operations in the Fremont NE terminal area. The modified Class E airspace will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 fee or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71,1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where Visual Flight Rules (VFR) pilots may anticipate the presence of IFR aircraft at lower altitudes, specially during inclement weather conditions. A greater degree of safety is achieved by depicting the area of aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 action 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 No. 02–ACE–5." The postcard will be date stamped and returned to the commenter.

Agency Findings

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.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

ACE NE E55 Fremont, NE [Revised]

Fremont Municipal Airport, NE
(lat. 41° 26′ 57″ N., long. 96° 31′ 13″ W.)

Fremont NDB (lat. 41° 27′ 02″ N., long. 96° 31′ 13″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Fremont Municipal Airport, excluding that airspace within the Scribner, NE, Class E and the Wahoo, NE, Class E airspace areas.

* * * * *

Issued in Kansas City, MO, on May 20, 2002.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–13549 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM98–10–010]

Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

Issued May 16, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim policy on certain remanded issues.

SUMMARY: On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion, generally affirming Order No. 637 concerning short-term and interstate natural gas transportation service. However, among other things, the Court vacated and remanded the policy that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

EFFECTIVE DATE: The interim policy is effective May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1274.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell; Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

[Docket No. RM98–10–010]

Interim Policy on Certain Remanded Issues

Issued May 16, 2002.

On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion,[1] generally affirming Order No. 637.[2] However, among other things, the Court vacated and remanded the policy adopted in Order Nos. 636 and 637 that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

This order is in the public interest because it clarifies for pipelines and their customers the policies to be in effect while the Commission considers the Court's remand.

[1] Interstate Natural Gas Association of America v. FERC, 2000 U.S. App. LEXIS 6219 at *70–*78 (No. 98–1333) (D.C. Cir. April 5, 2002) (*INGAA*).

[2] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,091 (February 9, 2000); *order on rehearing*, Order No. 637–A. FERC Stats. & Regs, Regulations Preambles (July 1996–December 2000) ¶ 31,099 (May 19, 2000); *order denying reh'g*, Order No. 637–B, 92 FERC ¶ 61,062 (2000).

Background

In Order No. 436, the Commission adopted a regulation giving pipelines pre-granted abandonment authority under Section 7(b) of the NGA, 15 U.S.C. 717f(b), to terminate open access transportation service to a shipper once its contract had expired and it had no contractual right of renewal.[3] In Order Nos. 500–H and 500–I, the Commission interpreted that regulation as applying to all open access transportation services, including transportation service provided to the pipelines' historic sales customers who converted their sales service to transportation service. On review of Order Nos. 500–H and 500–I, the court remanded the issue of pre-granted abandonment authority to the Commission, finding that the Commission had not "adequately explained how pregranted abandonment trumps another basic precept of natural gas regulation—protection of gas customers from pipeline exercise of monopoly power through refusal of service at the end of a contract period."[4]

In the subsequent Order No. 636 proceeding, the Commission determined that pre-granted abandonment authority would be tempered with a right of first refusal for firm customers with a contract longer than one year.[5] Accordingly, Order No. 636 adopted a regulation providing that such a shipper could retain its service under a new contract by matching the term and the rate (up to the maximum rate) offered by the highest competing bidder.[6] In Order No. 636, the Commission contemplated that the bids the existing shipper must match could be for any contract length. However, on rehearing, in Order No. 636–A, the Commission capped the contract length the existing shipper must match at 20 years. The Commission did not, however, amend

[3] 18 CFR 284.221(d) (2001).

[4] American Gas Association v. FERC, 912 F.2d 1496, 1518 (D.C. Cir. 1990). (*AGA*).

[5] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991–June 1996 ¶ 30,939 at 30,446–48 (April 8, 1992); *order on reh'g*, Order No. 636–A, 57 FR 36,128 (August 12, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991–June 1996 ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636–B, 57 Fed. Reg. 57,911 (December 8, 1992), 61 FERC ¶ 61,272 (1992); *reh'g denied*, 62 FERC ¶ 61,007 (1993); *aff'd in part and remanded in part*, United Distribution Companies v. FERC, 88 F.3d 1105 (D.C. Cir. 1996); *order on remand*, Order No. 636–C, 78 FERC ¶ 61,186 (1997).

[6] 18 CFR 284.221(d)(2)(ii) (2001).

the regulation adopted in Order No. 636 to include the 20-year cap.

On appeal, however, the Court found the 20-year cap was not justified by the record and remanded it for further explanation.[7] The Court stated that the Commission had not adequately explained how the twenty-year term matching cap protects against the pipelines' preexisting market power, particularly why the 20-year cap would prevent bidders on capacity constrained pipelines from using long contract duration as a price surrogate to bid beyond the maximum approved rate, to the detriment of captive customers. On remand, the Commission changed its policy and adopted a five-year term matching cap in Order No. 636–C. It relied on the fact most commenters in the Order No. 636 proceeding had supported a term matching cap in the range of five years and more recent evidence showed that five years was about the median length of all contracts of one year or longer between January 1, 1995 and October 1, 1996.[8] Since the 20-year term matching cap had not been included in the Commission's regulations, this change did not require any change in the Commission's regulations. However, the Commission required all pipelines whose current tariffs contained term caps longer than five years to revise their tariffs consistent with the new policy.

On rehearing, in Order No. 636–D, the Commission recognized that pipelines had raised legitimate concerns about whether the five year term matching cap was causing a bias toward short-term contracts, with adverse economic consequences for both pipelines and captive customers. However, the Commission deferred further consideration of the term cap to the proceeding which became the Order No. 637 proceeding in Docket No. RM98–10–000, where a more current record could be developed.

In the Order No. 637 proceeding, the Commission continued the five-year cap policy, finding that none of the parties presented evidence to support the conclusion that a five-year contract is atypical in the current market. On appeal, the Court found that, in doing so, the Commission did not address any of the objections that had been raised concerning the five-year cap and had relied on the same evidence that it had used to make its decision in Order No. 636–C, namely the fact that five years was about the median length of all contracts of one year or longer.[9] The Court concluded that the only evidence supporting the Commission's final decision to choose a five-year cap was the original record, which in the Commission's own view was incomplete. The Court held the Commission had neither given an affirmative explanation for its selection of five years, nor had it responded to its own or the pipelines' objections to the five-year cap. The Court also questioned why the Commission used a median to function as a ceiling. Consequently, the Court vacated the five-year cap and remanded the issue to the Commission.[10]

In the Order No. 637 proceeding, the Commission also addressed segmentation of capacity, under which shippers may divide their mainline capacity into segments with each mainline segment equal to the contract demand of the original contract. As a general matter, shippers may overlap those mainline segments, but only up to the contract demand of the underlying contract. In Order No. 637–A, the Commission clarified that a shipper using a forwardhaul and backhaul to bring gas to the same delivery point in an amount that exceeds its contract demand is not overlapping mainline capacity. On appeal the Court found that the Commission had not adequately addressed whether this policy modified the contracts between the pipeline and its shippers or adequately supported the need for any contract modification.

Discussion

The Commission lacks a sufficient record at this time to respond to the Court's concerns regarding the term cap used for the right of first refusal. As the Court itself noted, the most recent evidence developed in the prior proceedings concerned contract term lengths during the years 1995 to 1996. In addition, the Commission must address the objections that have been raised by the pipelines and other parties and those which it has raised itself. The Commission intends to proceed expeditiously to solicit evidence and views concerning the length of the term cap.

However, there will inevitably be a gap between the time the Court's mandate issues, and the time the Commission can issue a substantive order on remand responding to the Court's concerns about the term matching cap. This raises the question of how the right of first refusal is to be exercised in the meantime as long-term contracts with right of first refusal rights expire. The Commission is concerned that uncertainty over the exercise of those rights could cause market disruption and believes that existing shippers and competitors for their capacity need to be able to negotiate new contracts without the uncertainty that a contract could be invalidated by the Commission's determinations concerning the term cap in an order on remand.

In the interim, the Commission continues the term cap of five-years currently in pipeline tariffs as an interim policy. The Commission will not apply its subsequent order on the merits of the Court's remand on this issue to overturn any contracts entered into under this interim policy. This will enable existing shippers with a right of first of refusal, and competitors for their capacity, to compete for that capacity under known rules that will not change, and thus avoid upsetting their expectations.

This Interim Policy will govern the term cap for contracts with the right of first refusal and will be effective from the date of issuance of this policy statement until the Commission adopts a different policy or rule on the maxinum term that a holder of a contract with a right of first refusal must meet to retain its contract.

The Commission also intends to solicit comments on the remanded forwardhaul/backhaul issue. The Commission required pipelines to allow a shipper to deliver full contract quantities via forwardhauls and backhauls to a single delivery point as part of its general requirement that shippers be permitted to segment their capacity. Whether individual pipeline tariffs improperly restrict segmentation is currently being addressed pursuant to NGA section 5 in the pipeline filings to comply with Order No. 637. Until the Commission has acted on the Court's remand of the backhaul/forwardhaul issue, the Commission will not be in a position to make the necessary section 5 findings in the compliance proceedings to require pipelines to permit backhauls and forwardhauls to the same point. Therefore, the Commission will not address that issue in the compliance proceedings until after the issuance of the order on remand.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12940 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

[7] United Distribution Companies v. FERC, 88 F.3d 1105, 1140–41 (D.C. Cir. 1996) (*UDC*).

[8] Order No. 636–C at 61,774 and 61,792.

[9] *INGAA* at *78.

[10] The Court also remanded to the Commission the question of whether the Commission's ROFR regulation or the provisions in a pipeline's tariff govern the conduct of the ROFR process.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8990]

RIN 1545–AX66

Equity Options With Flexible Terms; Qualified Covered Call Treatment; Suspension of Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Suspension of final rule and announcement of new effective date.

SUMMARY: This document suspends a final rule that was published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20896) providing guidance on the application of the rules governing qualified covered calls.

DATES: The final rule published April 29, 2002 (67 FR 20896) is suspended effective April 29, 2002. That rule will be effective July 29, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela Lew, (202) 622–3950 (not a toll-free number).

LaNita Van Dyke,

Paralegal Specialist, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–13579 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 602

[TD 8992]

RIN 1545–AW67

Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 8992) which were published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20901). The final regulations relate to the information reporting requirements under section 6050S for payments of interest on qualified education loans, including the filing of information returns on magnetic media.

DATES: This correction is effective April 29, 2002.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to this correction are under section 6050 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8992) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (TD 8992), which were the subject of FR Doc. 02–9931, is corrected as follows:

1. On page 20902, column 2, in the preamble, the second line from the bottom of the first full paragraph, the language "regulations (REG–106388–01) under" is corrected to read "regulations (REG–106388–98) under".

Guy R. Traynor,

Federal Register Certifying Officer, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02–13170 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 588

Western Balkans Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing regulations to carry out the purposes of Executive Order 13219 of June 26, 2001, "Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans."

DATES: Effective Date: May 30, 2002.

Comments: Written comments must be received no later than July 29, 2002.

ADDRESSES: Comments may be sent either via regular mail to the attention of Chief, Policy Planning and Program Management Division, rm. 2176, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave. NW., Annex—2d Floor, Washington, DC 20220, or via OFAC's website (*http://www.treas.gov/ofac*).

FOR FURTHER INFORMATION CONTACT: Chief of Licensing, tel.: 202/622–2480, or Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On June 26, 2001, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13219 (66 FR 34777, June 29, 2001), effective at 12:01 a.m. eastern daylight time on June 27, 2001. The order declared a national emergency with respect to "the actions of persons engaged in, or assisting, sponsoring, or supporting, (i) extremist violence in the former Yugoslav Republic of Macedonia, southern Serbia, the Federal Republic of Yugoslavia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, threaten the peace in or diminish the security and stability of those areas and the wider region, undermine the authority, efforts, and objectives of the United Nations, the North Atlantic Treaty Organization (NATO), and other international organizations and entities present in those areas and the wider region, and endanger the safety of persons participating in or providing support to the activities of those organizations and entities, including United States military forces and Government officials."

Section 1 of the order blocks, with certain exceptions, all property and interests in property of (1) persons listed in the Annex to the order and (2) persons designated by the Secretary of the Treasury, pursuant to criteria set forth in the order. Section 1 of the order further states that the blocking of property and interests in property includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods or services to or for the benefit of a person designated in or pursuant to the order.

Section 2 of the order prohibits any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the order, as well as any conspiracy formed to violate such prohibitions.

Section 4 of the order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. In furtherance of those purposes, the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, is promulgating the Western Balkans Regulations, 31 CFR Part 588 (the "Regulations").

Subpart B of the Regulations sets forth the prohibitions contained in sections 1 and 2 of the order. See: §§ 588.201, 588.204. Appendix A to 31 CFR chapter V has previously been amended to incorporate the names of persons set forth in the Annex to the order. Persons identified in the Annex to the order or designated by or under the authority of the Secretary of the Treasury pursuant to the order are referred to throughout the Regulations as "persons whose property or interests in property are blocked pursuant to § 588.201(a)." Their names are or will be published on OFAC's website, announced in the **Federal Register** and incorporated on an ongoing basis into appendix A to 31 CFR chapter V, which lists persons subject to various sanctions programs administered by OFAC.

Sections 588.202 and 588.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and the required holding of blocked property in interest-bearing blocked accounts. Section 588.205 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds. The section further provides that blocked property may, in the discretion of the Director of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 588.206 of subpart B details transactions that are exempt from the prohibitions of part 588. These exemptions derive from the exemptions set out in sections 203(b)(1), (3) and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)) and relate to personal communications, the importation and exportation of information or informational materials, and travel. The President determined in sec. 1(b) of the order that donations of the type specified in sec. 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), i.e., donations of articles such as food, clothing and medicine intended to be used to relieve human suffering, would seriously impair the President's ability to deal with the declared national emergency. Accordingly, the donation of such articles is not exempted from the scope of these Regulations and is prohibited, unless authorized by OFAC.

Subpart C of part 588 defines key terms used throughout the Regulations and subpart D sets forth interpretive sections regarding the general prohibitions contained in subpart B. Transactions otherwise prohibited under part 588 but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V.

Subpart F of part 588 refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty.

Subpart H of part 588 refers to subpart D of part 501 for applicable provisions relating to administrative procedures. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Request for Comments; Procedural Requirements

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, because of the importance of the issues addressed in these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the Regulations on the submitter's activities, whether of a commercial, non-commercial or humanitarian nature, as well as changes that would improve the clarity and organization of the Regulations.

The period for submission of comments will close July 29, 2002. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such submission to the originator without considering them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these Regulations will be a matter of public record. Copies of the public record concerning these Regulations will be made available not sooner than August 28, 2002 and will be obtainable from OFAC's website (*http://www.treas.gov/ofac*). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Chief, Records Division.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or

sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 588

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Penalties, Reporting and recordkeeping requirements, Securities, Services, Western Balkans.

For the reasons set forth in the preamble, part 588 is added to 31 CFR chapter V to read as follows:

PART 588—WESTERN BALKANS STABILIZATION REGULATIONS

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; E.O. 13219, 66 FR 34777, June 29, 2001, 3 CFR, 2001 Comp., p. 778.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 588.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 588.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property or interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13219 of June 26, 2001 (3 CFR, 2001 Comp., p. 778); and

(2) Any person designated by the Secretary of the Treasury, in consultation with the Secretary of State, because they are found:

(i) To have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of threatening the peace in or diminishing the stability or security of any area or state in the Western Balkans region, undermining the authority, efforts, or objectives of international organizations or entities present in the region, or endangering the safety of persons participating in or providing support to the activities of those international organizations or entities; or

(ii) To have actively obstructed, or to pose a significant risk of actively obstructing, implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo; or

(iii) Materially to assist in, sponsor, or provide financial support for, or goods or services in support of, such acts of violence and obstructionism; or

(iv) To be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any person designated in the Annex to Executive Order 13219 or any person otherwise designated by the Secretary of the Treasury pursuant to this section.

Note to paragraph (a) of § 588.201: The names of persons whose property or interests in property are blocked pursuant to paragraph (a) of this section will be published on OFAC's website, announced in the **Federal Register** and incorporated on an ongoing basis with the identifier [BALKANS] into appendix A to 31 CFR chapter V. Section 501.807 of this chapter V sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation pursuant to paragraph (a)(2) of

this section or who wish to assert that the circumstances resulting in designation no longer apply. Similarly, when a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds to have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

(b) The blocking of property and interests in property pursuant to paragraph (a) of this section includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods or services to or for the benefit of a person whose property or interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

§ 588.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 588.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 588.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 588.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of a person whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to § 588.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term blocked *interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 588.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 588.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 588.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 588.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 588.204 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 588.205 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m., eastern daylight time, June 27, 2001, all expenses incident to the maintenance of physical property blocked pursuant to § 588.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 588.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 588.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials, as defined in § 588.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 588.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 588.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 588.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 588.201 held in the name of a person whose property or interests in property are blocked pursuant to § 588.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 588.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property or interests in property are blocked pursuant to § 588.201(a)(1), 12:01 a.m. eastern daylight time, June 27, 2001;

(b) With respect to a person whose property or interests in property are blocked pursuant to § 588.201(a)(2), the earlier of the date on which is received actual or constructive notice of such person's designation by the Secretary of the Treasury.

§ 588.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 588.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

Note to paragraph (a) of § 588.304. To be considered information or informational

materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 588.305 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., "an interest in property") means an interest of any nature whatsoever, direct or indirect.

§ 588.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 588.306: See § 501.801 of this chapter on licensing procedures.

§ 588.307 Person.

The term *person* means an individual or entity.

§ 588.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 588.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 588.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 588.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 588.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 588.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 588.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 588.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property

blocked pursuant to § 588.201(a), unless there exists in the property another interest that is blocked pursuant to § 588.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 588.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 588.404 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 588.201(a); or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 588.405 Provision of services.

(a) Except as provided in § 588.206, the prohibitions on transactions involving blocked property contained in § 588.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a); or

(2) With respect to property interests subject to § 588.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 588.201(a).

Note to § 588.405: See §§ 588.507 and 588.508, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 588.406 Offshore transactions.

The prohibitions in § 588.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 588.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 588.201(a) has or has had an interest since the effective date.

§ 588.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 588.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.

§ 588.408 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology may be made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a). For purposes of this part, a contribution or donation is made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 588.201(a) if made to or in the name of such a person; if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade or to avoid the bar on the provision of contributions or donations to such a person.

§ 588.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 588.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 588.201 if effected after the effective date.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 588.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 588.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 588.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 588.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 588.201(a) has any interest, that comes within the possession or control of a U.S. financial

institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 588.504. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 588.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 588.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 588.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 588.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 588.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 588.201(a).

§ 588.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 588.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 588.201(a) is prohibited unless specifically licensed in accordance with § 588.202(e).

§ 588.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 588.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 588.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act;

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 588.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30 day period set forth in § 588.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 588.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph (a) shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Default.* If the respondent elects not to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the prepenalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepenalty notice.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the

prepenalty notice was served upon the respondent in care of the representative.

§ 588.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 588.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 588.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D, of this chapter.

§ 588.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13219 of June 26, 2001 (3 CFR, 2001 Comp., p. 778), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 588.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: April 2, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 19, 2002.

Jimmy Gurulé,

Under Secretary (Enforcement), Department of the Treasury.

[FR Doc. 02–13425 Filed 5–24–02; 3:11 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–99–038]

RIN 2115–AE47

Drawbridge Operation Regulations: Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting, with changes, the interim rule published in the **Federal Register** on July 20, 1999, governing the operation of the Lady's Island Bridge at Beaufort, South Carolina. This rule changes the operating requirements from a seasonal operating schedule to an annual schedule that coincides with daily traffic volume. This rule will accommodate the needs of roadway traffic and still provide for the reasonable needs of navigation.

DATES: This rule is effective July 1, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–99–38] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida, 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 20, 1999, the Coast Guard published an interim rule entitled, Drawbridge Operation Regulations, Atlantic Intracoastal Waterway SC in the **Federal Register** (64 FR 38829). The Coast Guard received 43 comments on the interim rule, although 12 of these were actually in response to the since-discontinued test period preceding the interim rule. A public hearing was not requested and one was not held.

Background and Purpose

The Lady's Island Bridge (also known as the Woods Memorial Bridge) over the Atlantic Intracoastal Waterway (Beaufort River), mile 536.0 at Beaufort, South Carolina, has a vertical clearance

of 30 feet at mean high water and 37 feet at mean low water. Before August 23, 1999, the draw opened on signal, except that from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Saturday the draw only had to open on the hour. During the months of April, May, June, September, October, and November, Monday through Friday from 9 a.m. to 4 p.m., the draw only had to open on the hour, twenty minutes after the hour, and forty minutes after the hour.

The City of Beaufort requested that the Coast Guard change the existing regulations by eliminating openings during morning and evening rush hours and limiting the openings to twice an hour between rush hours. The operating regulations for this bridge had not been changed since 1986 and vehicular traffic had increased. The new schedule allows individuals crossing the bridge to plan their transit times and avoid delays from bridge openings, while still meeting the reasonable needs of navigation.

Discussion of Comments and Changes

The Coast Guard has received 43 comments regarding the interim rule and the test period that preceded it. Thirty responses were in favor of the new schedule and 13 were against the new schedule. Of the 13 comments against the schedule, 12 comments responded to a three-month test period which provided that the bridge need not open from 7 a.m. until 9 a.m., Monday through Friday. These comments requested the schedule begin at 7:30 a.m. instead of 7 a.m. each weekday.

The interim rule addressed this issue by beginning the schedule at 7:30 a.m. Additional information since the implementation of the interim rule from the City of Beaufort and other commenters shows that changing the regulation to 7:30 a.m. rather than 7 a.m. has aggravated vehicle traffic flow because vessels accumulate at the bridge at 7:30 a.m. awaiting the last opening and the bridge opens longer to pass the vessels. By changing this final rule from 7:30 a.m. to 7 a.m., we hope to alleviate the vehicle traffic congestion that has occurred as a result of the longer bridge openings. The one commenter against the interim rule did not want the rush hour closures at all and wanted to change the schedule so the bridge would open on the hour and half-hour between 7 a.m. and 6 p.m. We have carefully considered these comments and believe the interim rule should be adopted with the following change, the morning weekday schedule should begin at 7 a.m. instead of 7:30 a.m.

Regulatory Evaluation

This 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).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory polices and procedures of DOT is unnecessary because the rule will meet the needs of navigation while easing the flow of vehicular traffic during peak traffic periods.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the rule will meet the needs of navigation while easing the flow of vehicular traffic during peak traffic periods with scheduled openings.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 discretionary regulatory actions. 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (32) (e)

of Commandant Instruction M16475.1D, this rule is categorically excluded for further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the interim rule amending 33 CFR part 117 which was published at 64 FR 38829 on July 20, 1999, is adopted as a final rule with the following change:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Amend § 117.911 by revising paragraph (f) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(f) *Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort.* The draw shall operate as follows:

(1) On Monday through Friday, except Federal holidays:

(i) From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open; and,

(ii) Between 9 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(2) At all other times the draw shall open on signal.

Dated: April 30, 2002.

James S. Carmichael,

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

[FR Doc. 02–13511 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2001–10689]

RIN 2115–AG24

Temporary Requirements for Notification of Arrival in U.S. Ports

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change of effective date.

SUMMARY: The Coast Guard is extending the effective period for the temporary final rule on "Temporary Requirements for Notification of Arrival in U.S. Ports" to September 30, 2002, to ensure public safety and security and to ensure the uninterrupted flow of commerce.

DATES: Section 160.201(e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002; § 160.201(g), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001; the definitions for "certain dangerous cargo", "crewmember", "nationality", and "persons in addition to crewmembers" in § 160.203; § 160.T204, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002; § 160.T208, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and 67 FR 2571, January 18, 2002; and §§ 160.T212 and 160.T214, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, are all extended in effect until September 30, 2002. Section 160.201(c) and (d); the definition of "certain dangerous cargo" in § 160.203; and §§ 160.207, 160.211, and 160.213, which were suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LTJG Marcus A. Lines, U.S. Coast Guard (G–MMP), at 202–267–6854. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for security checks on all modes of travel, particularly those modes by which foreign nationals can enter the country. In the maritime context, extra time is needed for security checks. Vessels bound for U.S. ports and places could experience delays in entering port if required arrival information is not received early enough.

On October 4, 2001, we published a temporary final rule entitled "Temporary Requirements for Notification of Arrival in U.S. Ports" in the **Federal Register** (66 FR 50565). Subsequently, we published two corrections in the **Federal Register** [November 19, 2001 (66 FR 57877)] and [January 18, 2002 (67 FR 2571)]. The temporary rule increased the time for submission of a notice of arrival (NOA) from 24 to 96 hours prior to arriving at port; required centralized submissions; temporarily withdrew exemptions from reporting requirements for some groups of vessels; and required passenger, crew, and cargo information.

We are extending the effective period of the temporary final rule so that we can complete a rulemaking [(USCG–2001–11865), RIN 2115–AG35, "Notification of Arrival in U.S. Ports"] to permanently change the notice of arrival requirements. Extending the effective date until September 30, 2002, should provide us enough time to complete the rulemaking.

We did not publish a notice of proposed rulemaking (NPRM) for this rule and it is being made effective less than thirty days after publication in the **Federal Register**. When we promulgated the October 4 rule, we intended to either allow it to expire on June 15, 2002, or to cancel it if we made permanent changes before that date. We are now preparing an NPRM to make permanent changes to the notice of arrival requirements. That rulemaking will follow normal notice and comment procedures, and a final rule should be published before September 30, 2002. Continuing the temporary rule in effect while the permanent rulemaking is in progress will help to ensure the security of our ports and the uninterrupted flow of maritime commerce during that period. Therefore, the Coast Guard finds good cause under 5 U.S.C. 553 (b)(B) and (d)(3) for why a notice of proposed

rulemaking and opportunity for comment is not required and why this rule will be made effective fewer than 30 days after publication in the **Federal Register**.

Regulatory Evaluation

This temporary 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. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Assessment under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary; however, a Regulatory Assessment has been prepared and may be viewed in the docket for this project. As discussed in the temporary final rule preamble, the Coast Guard has temporarily changed the notice of arrival (NOA) regulations. When assessing the impact of the temporary requirements, we estimated that providing the Coast Guard with the additional information about passengers, crew, and cargo will impose minimal burden on vessels already complying with the notification requirements of 33 CFR part 160, subpart C. We estimated that, by suspending some exemptions, the temporary rule imposed a heavier burden on vessels that were exempt from reporting but that are now required to report in accordance with § 160.T208. As explained below, the total cost of this temporary rule should not exceed $754,648:

Cost and Burden. Coast Guard data on Notification of Arrival information for 1998 and 1999 were used to estimate the maximum populations affected by the temporary rule. Table 1 categorizes the affected vessel population into four sub-populations. They are:

- "Non-AMVER/Non-Great Lakes Vessels"—vessels already required to comply with NOA regulations;
- "AMVER"—vessels complying with the Automated Mutual Assistance Vessel Rescue system and that were exempt from NOA requirements prior to the temporary rule;
- "Great Lakes Vessels"—vessels greater than 300 gross tons, on Great Lakes routes, that were exempt from NOA requirements prior to the temporary rule; and
- "Vessels on Scheduled Routes"—vessels operating upon a route that is described in a schedule that is submitted to the Captain of the Port for each port or place of destination listed in the schedule.

The table also sets out the number of vessels and their total number of U.S. port calls (arrivals) for each vessel sub-population.

TABLE 1.—NUMBER OF VESSELS AND U.S. PORT CALLS FOR 1998 AND 1999*

	1998	1999	Annual average	Monthly average
Non-AMVER/Non-Great Lakes:				
Vessels	9,795	9,538	9,667	NA
U.S. Port Calls	63,090	63,482	63,286	5,274
AMVER:				
Vessels	625	609	617	NA
U.S. Port Calls	4,027	4,052	4,040	337
Great Lakes:				
Vessels	83	82	83	NA
U.S. Port Calls	840	786	813	68
Totals:				
Vessels	10,503	10,229	10,367	NA
U.S. Port Calls	67,957	68,320	68,139	5,679

* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels less than 300 gross tons making ports of call in the Seventh Coast Guard District have to file NOA reports with the COTP. The temporary rule maintained this requirement, and the estimate of the vessels and port calls presented in Table 1 accounted for this special group.

Before the temporary final rule, vessels had to file multiple NOA reports if they were visiting multiple U.S. ports on the same voyage. Under the temporary rule, vessels making calls to multiple U.S. ports do not have to file multiple NOA reports; rather, the temporary rule allows a single report listing all destinations in the United States along with estimated arrival dates for each port. The Coast Guard did not collect or maintain information on the number of vessels that made multiple U.S. port calls under separate NOA reports to estimate the number of consolidated reports under the temporary rule. The totals above, therefore, represent a conservative estimate, a "worst-case scenario," of the numbers of vessels and NOA reports that will be affected by the temporary rule.

Finally, vessels that make scheduled trips outside of their COTP zones will no longer be exempt from reporting requirements. We do not know how many of these vessels and port calls exist, though we know they are included in the population of non-AMVER/non-Great Lakes vessels. For the purposes of analysis, these vessels and port calls are included in the non-AMVER/non-Great Lakes population.

Cost of the Temporary Rule

Minimal burden will be imposed on vessels whose applicability to the NOA reporting requirements was upheld by the temporary rule because the cargo, crew, and passenger information they provide to the Coast Guard is already collected on a form submitted to the Immigration and Naturalization Services (INS) (INS form I–418). We assumed 10 minutes (0.167 hours) will be spent retrieving and transmitting the cargo, crew, and passenger information. We assumed that there will be a $2 transmittal fee (fax, email, telephone, etc.) to provide this information to the Coast Guard. We assumed that clerical labor will complete these tasks at a cost of $31.00 per hour (loaded labor rate, 2001). Based on 1998 and 1999 data, we estimated 63,286 port calls will be made over the time period of this rulemaking (12 months—until September 30, 2002). The summary of unit costs and total rulemaking costs for non-AMVER/non-Great Lakes vessels is presented in Table 2.

TABLE 2.—TOTAL RULEMAKING COSTS FOR NON-AMVER/NON-GREAT LAKES VESSELS

[October 2001–September 2002]

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
63,286 *	0.167	10,548	$31.00	$2.00	$453,564

Detail may not calculate to total due to independent rounding.
*These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels that were previously exempt from NOA requirements must now, as a result of the temporary rule, provide the Coast Guard with NOA reports in addition to providing the cargo, crew, and passenger information. These vessels (AMVER and vessels that transit only the Great Lakes) will incur the new cost of submitting an NOA report, since they did not have to submit this report in the past. Based on the OMB-approved Collection of Information for NOA (OMB–2115–0557), we estimated that it will take 10 minutes (0.167 hours) to complete the report, plus an additional 5 minutes (0.083 hours) for the general description of the cargo. We assumed that clerical labor will complete the report at a cost of $31.00 per hour. Additionally, these vessels will need to develop and submit the cargo, crew, and passenger information. Based on information from the INS (OMB–1115–0083), it will require 60 minutes (1.000 hour) to complete both lists, for a total of 75 minutes (1.250 hours) for the entire submission (NOA report, cargo description, crew and passenger information). There will be a $2 transmittal fee to provide the information to the Coast Guard. Based on 1998 and 1999 data, we estimated that 4,853 port calls will be made over the time period of this rulemaking. The summary of unit costs and total rulemaking costs for AMVER/Great Lakes vessels is presented in Table 3.

TABLE 3.—TOTAL RULEMAKING COSTS FOR AMVER/GREAT LAKES VESSELS

[October 2001–September 2002]

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
4,853	1.250	6,065	$31.00	$2.00	$197,741

Detail may not calculate to total due to independent rounding.

Finally, all vessels affected will need to communicate with the National Vessel Movement Center (NVMC) upon departure from a U.S. port when their next port of call is also a U.S. port. Vessels are to phone or fax the date of departure to the NVMC along with the name of the port just departed. The NVMC will transmit this information to the COTP in the next port of call. We assumed that reporting this will require 1 minute (0.017 hours) per departure and that clerical labor ($31.00 per hour) will make the call or send the fax. We assumed the transmittal fee will be $1.00 per call/fax. There will be an estimated 68,139 departures over the 12-month period of the temporary rule (until September 30, 2002). The cost and burden for notifying NVMC of the date of departure and last port of call is presented in Table 4.

TABLE 4.—TOTAL RULEMAKING COSTS FOR PROVIDING NVMC WITH DATE OF DEPARTURE AND LAST PORT OF CALL INFORMATION

[October 2001–September 2002]

Port departures during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rule-making cost for these vessels
68,139	0.017	1,136	$31.00	$1.00	$103,343

Detail may not calculate to total due to independent rounding.

The total cost and burden of the rule is presented in Table 5.

TABLE 5.—TOTAL RULEMAKING COST FOR ALL AFFECTED VESSELS

[October 2001–September 2002]

	Arrivals/ departures	Cost per arrival/ departure	Burden per arrival/ departure (hours)	Total rule-making cost	Total rule-making burden
Arr. Non-AMVER/Non-Great Lakes	63,286	$7.17	0.167	$453,564	10,548

TABLE 5.—TOTAL RULEMAKING COST FOR ALL AFFECTED VESSELS—Continued

[October 2001–September 2002]

	Arrivals/ departures	Cost per arrival/ departure	Burden per arrival/ departure (hours)	Total rule-making cost	Total rule-making burden
Arr. AMVER/Great Lakes	4,853	40.75	1.250	197,741	6,065
Dep. all vessels	68,139	1.52	0.017	103,343	1,136
Totals	136,278			754,648	17,749

Detail may not calculate to total due to independent rounding.
* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Need for the Temporary Rule

This rule will ensure the timely receipt of advance information about vessels and people entering U.S. ports and will help minimize disruption to commerce. The additional information required by this temporary rule will increase security and provide protection for the nation's ports and waterways. There will be some savings from the consolidated NOA submission for two or more consecutive arrivals at U.S. ports.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule was not preceded by a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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

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

Collection of Information

This rule modifies an existing 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 collection, 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: Advance Notice of Vessel Arrival and Departure.

OMB Control Number: 2115–0557.

Summary of the Collection of Information: The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This rule will amend 33 CFR part 160 to temporarily require:

- Earlier receipt of the notice of arrival—96 hours instead of 24 hours—from vessels currently required to provide advance notification of arrival;
- Submission of NOA reports to a central clearinghouse, the National Vessel Movement Center;
- Suspension of the current exemption from notice of arrival reporting requirements for vessels operating in compliance with the Automated Mutual Assistance Vessel Rescue System, some vessels operating on the Great Lakes, and vessels on scheduled routes; and
- Additional information about crewmembers, passengers, cargoes on board the vessel to be provided as items in the notice of arrival report.

The temporary changes will be in effect until September 30, 2002.

Need for Information: To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard must temporarily change regulations relating to the Notifications of Arrival requirements.

Proposed Use of Information: This information is required to control vessel traffic, develop contingency plans, and enforce regulations.

Description of the Respondents: The respondents are owners, agents, masters, operators, or persons in charge of vessels bound for or departing from U.S. ports.

Number of Respondents: The existing OMB-approved collection number of respondents is 9,834. This temporary rule will increase the number of respondents by 533 to a total of 10,367.

Frequency of Response: The existing OMB-approved collection annual number of responses is 126,722. This temporary rule will increase the number of responses by 9,556 to a total of 136,278.

Burden of Response: The existing OMB-approved collection burden of response is 10 minutes (0.167 hours). This temporary rule will increase the burden of response by 5 minutes (0.083 hours) to a total of 15 minutes (0.250 hours).

Estimate of Total Annual Burden: The existing OMB-approved collection total annual burden is 21,288 hours. This temporary rule will increase the total annual burden by 17,749 hours to a total of 39,037 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this

rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for "emergency processing" of our request. We received OMB approval for the collection of information on September 26, 2001. It is valid until September 30, 2002.

We ask for public comment on the 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. We received OMB approval for the collection of information on September 26, 2001. It is valid until September 30, 2002.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 discretionary regulatory actions. 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 rule will not result in such an expenditure, the effects of this rule are discussed elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This temporary final rule changes the requirements established in the notification of arrival regulations. They are procedural in nature and therefore are categorically excluded. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 160

Administrative practice and procedure; Harbors; Hazardous materials transportation; Marine safety; Navigation (water); Reporting and recordkeeping requirements; Vessels; Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart C—Notifications of Arrival, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

1. The authority citation for part 160 is amended to read as follows:

Authority: 33 U.S.C. 1223, 1226, 1231; 49 CFR 1.46.

§ 160.201 [Amended]

2. In § 160.201, paragraphs (c) and (d), which were suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002 and paragraphs (e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and paragraph (g), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, are extended in effect until September 30, 2002.

§ 160.203 [Amended]

3. In § 160.203, the definition of "certain dangerous cargo," which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002; and the definitions for "certain dangerous cargo", "crewmember", "nationality", and "persons in addition to crewmembers" which were added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, are extended in effect until September 30, 2002.

§ 160.T204 [Amended]

4. Section 160.T204, which was added at 66 FR 50565, October 4, 2001,

effective October 4, 2001, until June 15, 2002, is extended in effect until September 30, 2002.

§ 160.207 [Amended]

5. Section 160.207, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T208 [Amended]

6. Section 160.T208, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and by 67 FR 2571, January 18, 2002, is extended in effect until September 30, 2002.

§ 160.211 [Amended]

7. Section 160.211, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T212 [Amended]

8. Section 160.T212, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, is extended in effect until September 30, 2002.

§ 160.213 [Amended]

9. Section 160.213, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, will continue to be suspended through September 30, 2002.

§ 160.T214 [Amended]

10. Section 160.T214, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, is extended in effect until September 30, 2002.

Dated: May 23, 2002.

J.P. High,

Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–13548 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–01–015]

RIN 2115–AA97

Security Zones, Naval Submarine Base Bangor and Naval Submarines, Puget Sound and Strait of Juan De Fuca, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In June 2001, we issued an interim rule establishing a fixed security zone around U.S. Naval Submarine Base Bangor. This interim rule also established moving security zones around U.S. Naval submarines while underway on Puget Sound, and the Strait of Juan De Fuca, WA and adjoining waters. This interim rule was established to safeguard U.S. Naval Submarine Base Bangor, and U.S. Naval submarines from sabotage, other subversive acts, or accidents, and otherwise protect Naval assets vital to national security. Based on the issuance of a naval vessel protection rule and the actions of other agencies, the Coast Guard is removing this interim rule because it is no longer needed.

DATES: This rule is effective 11:59 p.m. PDT, June 20, 2002.

ADDRESSES: Coast Guard Marine Safety Office Puget Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT P. M. Stocklin, Jr., c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard issued an interim final rule, effective June 20, 2001, that was published in the **Federal Register** (66 FR 35758, July 9, 2001). We are removing that interim final rule.

Under 5 U.S.C. 553(d)(3), we find that good cause exists to make this rule effective less than 30 days after publication in the **Federal Register**. This rule removes security zones that are no longer needed because of other regulatory changes designed to provide adequate security for U.S. Naval Submarine Base Bangor and submarines.

Background and Purpose

The Coast Guard established a fixed security zone around Naval Submarine Base Bangor, WA, and moving security zones around Naval submarines while underway on Puget Sound, and the Strait of Juan De Fuca, WA and adjoining waters because we determined it was necessary to prevent access to these areas in order to safeguard this U.S. Naval base and submarines from sabotage, other subversive acts, or accidents, and otherwise protect U.S. Naval assets vital to national security. Events such as the bombing of the USS COLE highlight the fact that there were hostile entities operating with the intent to harm U.S. national security by attacking or sabotaging Naval assets including those in Puget Sound. The events of September 11, 2001, demonstrated that there were real, credible, and immediate threats.

The Coast Guard, through our interim final rule, assisted the U.S. Navy in protecting vital national security assets by establishing security zones to exclude persons and vessels from the immediate vicinity of U.S. Naval Submarine Base Bangor and submarines. Entry into these zones was prohibited unless authorized by the Captain of the Port or his designee. These security zones are patrolled and enforced by Coast Guard and Navy personnel.

These zones are not needed after June 20, 2002 because regulatory changes, designed to provide adequate security for U.S. Naval Submarine Base Bangor and submarines, will be in effect by June 20, 2002. In particular, the Protection of Naval Vessels rule issued under the authority in 14 U.S.C. 91 immediately following the September 11, 2001 attacks (66 FR 48780, September 21, 2001; and 66 FR 48782, September 21, 2001) will provide protective measures for both vessels and bases. Additionally, the Army Corps of Engineers will also be providing a Naval Restricted Area around Submarine Base, Bangor, Washington. As a result this interim rule is no longer needed, and the Coast Guard is withdrawing the interim rule and closing this rulemaking docket.

Discussion of Comments and Changes

The Coast Guard received 15 responses to the interim final rule. The paragraphs in this section discuss the comments we received and provide the

Coast Guard's response. The Coast Guard is not making any changes to the rule based on the comments. Instead, the interim final rule is being withdrawn because other protective measures make the rule unnecessary.

General comments are discussed first, followed by comments on specific sections of the regulations.

General Comments

Five comments expressed support for the expanding of the security zone around the Naval Subase Bangor and the mobile security zones around submarines in order to protect them from sabotage, other subversive acts, or accidents. In addition, these responses contained issues that were outside the scope of this regulation.

One comment in favor of the security zone also stated that just because there is not a specific threat we should still act as prudent military commanders and extend security zones despite what intelligence agencies know but cannot share with the public in detail.

Two comments stated that, due to recent terrorist attacks on the United States military, we as a country should ensure the safety of the military.

One comment from a boater agreed with the security zone and stated that the security zone in no way will hinder navigation in the Puget Sound area.

One commenter in support of the security zone stated that, because he was a taxpayer, the submarines belonged to him and that the Coast Guard and Navy should use all appropriate means to protect them from enemy attack.

Four comments opposed the expedited implementation of this regulation and requested public hearings. Some of these expressed concern that the public was not allowed to ask questions and voice their concerns on the expanding of the security zone. In light of the threat and vulnerability concerns for naval installations and vessels, as highlighted by the terrorist attack on the USS Cole, the Navy and Coast Guard decided that a security zone around the subase and submarines was needed immediately. Following the terrorist attack on the World Trade Centers in New York and the Pentagon in Washington, D.C., the security zones have proven to be an appropriate necessity.

Three comments suggested that the security zones would hinder peaceful marine protesting of the nuclear submarines and the submarine base. This rule does not prevent people from engaging in constitutionally-protected expression. People are still able to peacefully protest outside the security zones. The zones are designed to protect Navy assets to the maximum extent possible without unreasonably impacting the right to free speech.

One comment mentioned that protection of civilian marine traffic during a terrorist attack on a submarine is not addressed in the interim final ruling. This comment is outside the scope of this rulemaking.

Four comments suggested other ways the Navy could increase security for its submarines and the subase. These suggestions were not practical due to the inherent dangers involved in submarine navigation and/or would create added unnecessary burdens.

Two comments expressed concern over automobile traffic being impeded on the Hood Canal Bridge. These comments are outside the scope of this regulation.

Three comments questioned what and whether there is a credible threat to U.S. submarines. It would be contrary to the public interest to disclose the exact nature of the threats to U.S. Naval assets, as this information is highly classified, and if divulged would greatly damage U.S. intelligence sources and security postures. The terrorist attacks of September 11, 2001 have proven that there are very credible threats to our nation and its capability to conduct war.

One comment questioned if a bomb threat on one of the submarines in May 2000 was one of the reasons for the security zone. This comment is out of the scope of this regulation.

One comment questioned if a November 2000 arrest for sabotage of a Navy Petty Officer assigned to a submarine was one of the reasons for the security zone. This comment is out of the scope of this regulation.

Three comments discussed protesters being unable to enter Elliot Bay while a nuclear submarine was moored there in August 2000 for Sea Fair festivities. These comments are out of the scope of this regulation.

One comment questioned if there is a similar security zone for Trident Submarines and the subase at Kings Bay, Georgia. That base has different geographical parameters than Puget Sound, and does not serve as a good comparison.

One comment suggested that the number of times a Trident Submarine passes through the Strait of Juan De Fuca and Hood Canal should be estimated in order to determine if the distances established by the zones will still permit adequate freedom of movement on the waterways. Due to the required secrecy of Trident submarine movements, the number of submarine passages cannot be made public.

One comment questioned if the Indian Tribal Governments had been contacted. The commenter stated it was not reasonable to expect Indian Tribes to review the **Federal Register** in order to comment on the impact to their tribes. The Coast Guard is required to consult Indian Tribes for rules that would have a significant impact on Tribal activities. The interim final rule did not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it did not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. As a result, the Indian Tribes were not consulted on the interim final rule.

One comment questioned why the environmental impact was left off the interim final ruling. The Coast Guard was not required to prepare environmental documentation prior to issuing the interim final rule, but has subsequently done so.

One comment suggested that the regulation would have an impact on commercial and civilian navigation. Since the interim regulation has been in affect, there has only been minimal impact on recreational and commercial navigation. This rule is being withdrawn so it will no longer have any impact on recreational or commercial navigation.

Comments on Specific Sections of the Rule

One comment questioned what response the Coast Guard or Navy would give to an infraction of the security zone. Specific Coast Guard enforcement actions depend on the circumstances of each case, and can, in accordance with policy, range from education and verbal warnings up to the maximum penalties provided by law. The Coast Guard and Navy will take all legally appropriate and necessary law enforcement measures to ensure compliance with the zone.

Four comments opposed the expedited implementation of this regulation and requested public hearings. Some of these expressed concern that the public was not allowed to ask questions and voice their concerns on the establishment of the security zones. The Coast Guard did not hold public hearings prior to the rulemaking because good cause existed to make the rule effective sooner than the normal rulemaking process would allow, as discussed in the interim final rule. The Coast Guard was also available

to answer any questions posed by the public.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the regulated areas established by the interim final rule are being cancelled For the above reason, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This final rule will not affect any small entities. Because the impacts of this final rule are expected to be minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

If you believe 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 (*see* **ADDRESSES**) explaining why you believe it qualifies and how and to what degree this final 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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the (**FOR FURTHER INFORMATION CONTACT**) section.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This final rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This final 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.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lC, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for security zones. A Categorical Exclusion Determination and an Environmental Analysis Checklist are available in the docket at the location specified under the **ADDRESSES** portion of this rulemaking.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Final Rule

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.1311 [Removed]

2. Remove § 165.1311.

Dated: May 20, 2002.

M.R. Moore,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 02–13509 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–002]

RIN 2115–AA97

Safety and Security Zones; Pilgrim Nuclear Power Plant, Plymouth, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety and security zones around the Pilgrim Nuclear Power Plant in Cape Cod Bay, Plymouth, MA. The safety and security zones will close certain waters of Cape Cod Bay near the Pilgrim Nuclear Power Plant and land adjacent to those waters. The safety and security zones prohibit entry into or

movement within a portion of Cape Cod Bay and adjacent shore areas and are needed to ensure public safety and prevent sabotage or terrorist acts.

DATES: This rule is effective June 16, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dave Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3030.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 29, 2002, we published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (67 FR 4218). The comment period for that NPRM expired on April 15, 2002. The Coast Guard is now proceeding to implement a final rule taking into account all comments received.

Good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest. Based upon comments received and evaluations of the proposed rulemaking and the hardships it threatened to impose on local waterway users, the zones have been reduced to less than one half of their original sizes in this final rule. As discussed below, the new zone descriptions will allow waterway users access to much more area than the previously proposed zones while still providing adequate protection to the Plant.

The public has been dealing with larger zones since September 2002, and has been anticipating the implementation of a final rule to coincide with the expiration on June 15, 2002 of current temporary safety and security zones around the Plant. Their comments indicate they want safety and security zones around the plant, but want smaller boundaries.

It is necessary for this zone to come into effect on June 16, 2002 to ensure there is no gap between its implementation and the expiration of the temporary safety and security zones published January 14, 2002 currently in effect around the Plant (67 FR 1607). If a gap between rulemakings occurs, the Coast Guard will have no viable enforcement options around the Plant waterfront during this period.

Because this final rule significantly decreases the impact on the public by implementing smaller zones, and because of the need to ensure there is no gap between the expiration of temporary safety and security zones published in January (67 FR 1607) that expire on June 15, 2002, and the implementation of this rulemaking, it is necessary for this regulation to become effective on June 16, 2002 in the interest of public safety and security. The public will still have substantial advance notice of this final rule before it becomes effective.

Background and Purpose

In light of terrorist attacks on New York City and Washington D.C. on September 11, 2001, safety and security zones are being established to safeguard the Pilgrim Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Pilgrim Nuclear Power Plant presents a possible target of terrorist attack, due to the potential catastrophic impact nuclear radiation would have on the surrounding area, its large destructive potential if struck, and its proximity to a population center. These safety and security zones prohibit entry into or movement within the specified areas.

This rulemaking establishes security and safety zones having identical boundaries delineated as follows: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′42″ N, 070°41′6″ W; then running southwest to position 41°56′30″ N, 070°34′21″ W; then running northwest to position 41°56′51″ N, 070°34′55″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

No person or vessel may enter or remain in the prescribed safety and security zones at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port or designated Coast Guard representative on-scene. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than $100,000), in rem liability against the offending vessel, and license sanctions.

Discussion of Comments and Changes Implemented in the Final Rule

The Coast Guard received 23 oral comments at one public meeting and 17 written comments during the comment period for the NPRM. All comments received were considered in the development of this final rule. Changes implemented in the final rule are the result of inter-Coast Guard evaluations of how to better employ and enforce the regulation and comments and recommendations of stakeholders in the COTP Boston zone. These stakeholders include the maritime industry, commercial and recreational fishermen, the maritime law community, and local townspeople.

As a result of the comments, review, and public recommendations the zones' delineation will change from the following: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′30″ N, 070°34′36″ W; then running southeast to position 41°56′36″ N, 070°33′30″ W; then running southwest to position 41°56′28″ N, 070°34′38″ W; then running northwest to position 41°56′50″ N, 070°34′58″ W; then running northeast back to position 41°57′30″ N, 070°34′36″ W; to the following revised coordinates: all waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′40.5″ N, 070°34′4.5″ W; then running southwest to position 41°56′32″ N, 070°34′14″ W; then running northwest to position 41°56′55.5″ N, 070°34′52″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

These changes remove the majority of the Rocky Point shoal area and all of the White Horse Rocks area from the zones, and reduce the approximate size of the zones by more than half. The specific comment topics and resultant changes (if any) are addressed below.

I. Adequate Protection Can Be Provided By Smaller Zones

The Coast Guard received comments from both the public and Pilgrim Nuclear Power Plant advocating smaller zones. Pilgrim Nuclear Power Plant

conducted evaluations based upon Nuclear Regulatory Commission data and concluded that zones approximately 500 yards offshore from the plant would provide adequate protection against waterside threats. Based upon this evaluation and the hardships (as outlined below) the proposed zones threatened to impose on local waterway users, the zones have been reduced in size as described above in this discussion of comments and inthe Background and Purpose section.

II. The Size of the Proposed Zones Would Place an Excessive Burden on the Commercial Lobster Industry By Excluding Fishermen From Frequently Fished Areas, Forcing Fishermen to Crowd Into Other Areas and Reducing Their Income

Many comments related concerns that the proposed zones' boundaries would exclude lobstermen from highly productive lobstering areas, namely the White Horse Rocks and the Rocky Point shoal areas. At the time the NPRM was issued the Coast Guard was still investigating the potential impacts of the zones on the commercial fishing community. Upon consulting with local and state lobsterman officials as well as the Massachusetts Division of Marine Fisheries, it was determined that a significant amount of the lobster landings for Plymouth, MA, come from these areas and a significant amount of lobstermen depend upon those areas for their livelihoods. The revised and reduced boundaries, as supported by the studies conducted by the Pilgrim Plant and Nuclear Regulatory Commission, will allow the lobstermen to fish the vast majority of the highly productive lobstering areas from which they would have been originally excluded. A small portion of Rocky Point shoal area must remain inside the revised boundaries due to its proximity to the Pilgrim Plant.

III. The Regulation May Affect Private Boat Ramps on the Adjacent Priscilla Beach and Access to This Beach. It May Also Affect Private Property Abutting the Pilgrim Nuclear Power Plant

Some comments raised concerns regarding the extent of the proposed zones' boundaries, and that they might extend over public beaches, property, and boat ramps. The boundaries of the zones (both proposed and revised) at no time extended over any public beaches, private property, or public or private boat ramps outside Pilgrim Nuclear Power Plant property. As a result, we made no changes in response to these comments.

IV. The Proposed Zones Prevent Recreational Boats From Using the Safest Transit Path To and From Priscilla Beach Between White Horse Rocks and the Beach

Many comments stated concerns that proposed zones extended far enough offshore that it would force recreational boats to go around White Horse Rocks to transit to and from Priscilla Beach. They stated this could be dangerous in the instance boats needed to quickly return to shore due to a storm. The revised boundaries will allow recreational boaters to safely utilize their desired transit path between the zones and the White Horse Rocks area.

V. Additional Public Meetings and an Extension of the Comment Period Are Needed To Allow More Involvement of the Priscilla Beach Residents, and To Determine the Economic Impacts on the Local Lobstermen

A few comments requested extension of the comment period and additional public meetings. The comment period for the proposed rule was nearly 3 months long and numerous comments from Priscilla Beach residents were received. A public meeting was held with 87 participants, some of whom were Priscilla Beach residents. Due to the fact that the zones will not encompass any of Priscilla Beach, its adjacent private property, or the surrounding public and private boat ramps, and the fact that impacts on recreational boat transits to and from the beach will be negligible under the revised boundaries, the Coast Guard did not extend the comment period or schedule another public meeting.

In addition, lobstermen wished to have a separate meeting with the Coast Guard to determine the potential income loss they might experience due to the implementation of the zones. It was determined at the February 6, 2002 public meeting that the comment submission process provided a better avenue to document and address these issues, since lobstermen could easily determine their incomes and potential losses on their own without Coast Guard aid. All lobstermen who felt their livelihoods might be impacted by the zones were asked to submit comments supporting these claims during the comment period. The Coast Guard received four comments specifically detailing potential economic losses and the amount of lobstermen who would be impacted by the proposal.

VI. Safety and Security Zones Are Not Needed Due to the Large Number of Local Mariners Watching the Water as They Operate Off of the Pilgrim Plant

Many comments were from local mariners convinced that the zones are not necessary because the local mariners know each other in the vicinity of the plant, and would notice anything or anyone out of the ordinary. While the Coast Guard appreciates reports of suspicious activity from the public, such a public "neighborhood watch" group would not serve the same purpose, nor offer the same protection, as the safety and security zones. Local mariners cannot prevent potential terrorists from entering the area, they cannot board suspicious vessels, and they cannot remove suspicious persons or vessels from the area, and thus cannot be used in place of these safety and security zones.

VII. A Check-In System Should Be Established To Let People In and Out of the Zones

Some comments advocated a system to allow mariners to check in and out of the zones. Many systems were proposed including coded gates, tracking devices, and special identification and call in procedures, among others. A check-in procedure was established for the small number of commercial lobstermen whose livelihoods were effected by the temporary zones around the Plant. However, we feel such a system would be unpractical for recreational boats due to their large numbers. In addition, the need for any such system at this time is unnecessary considering the new boundaries of the zones, which will allow mariners to fish and transit within approximately 500 yards of the plant.

VIII. Buoys or Other Markers May Be Needed To Delineate the Zones

Some comments stated that markers to delineate the zones were essential. Others stated they did not want markers that would cause too much noise or be lit too brightly (such as buoys). The purpose of this regulation is solely to establish zones, it will not be used to mandate marking systems for the zones. However, the Coast Guard has determined marking of the zones may be beneficial and, along with the Pilgrim Power Plant, is considering whether to permit marking the zones with private aids to navigation. Markings placed, if any, will be certified by the First Coast Guard District Aids to Navigation Office, and their lights and sounds will not negatively impact communities on nearby Priscilla Beach.

IX. The Zones Should Be Made "Impenetrable" With Physical Barriers Such as Submarine Nets and Defense Systems Such as Missiles

Some comments sought the establishment of additional defense systems including physical barriers and anti-aircraft systems. The Coast Guard is currently in consultation with the Plant on static enforcement measures. However, it is beyond the scope of this rulemaking to address landside and air security improvements, or specify enforcement techniques. Thus, no action will be taken on comments within these categories.

X. The Public Wants To Know Who Will Enforce the Zones, When They Will Be There, and How Violators Will Be Dealt With

Some comments sought information on the enforcement of the zones. Coast Guard cutters, small boats, and air assets will enforce the zones with the assistance of others, including but not limited to, Massachusetts State Police and Environmental Police, and local harbormasters. In addition, Pilgrim Plant security will report any suspicious activity immediately to the Coast Guard.

Patrolling of the zones will be varied. Patrol schedules are a matter of agency discretion and will not be divulged to the public in advance. Violators of the zones will be subject to all provisions of applicable law and at a minimum will be escorted out of the zones by the Coast Guard or representative on scene. Depending on the circumstances, zone violators may receive any penalty up to the maximum penalties prescribed under the *Background and Purpose* section.

XI. The Public Wants To Know What Types of Vessels or Attacks Could Damage the Plant

Some comments sought information on what types of vessels could damage the plant. Potentially any vessel or person that could get inside these zones could damage the Pilgrim Nuclear Power Plant. This is why these zones are needed to prevent people and vessels from approaching the plant waterfront, and access to the zones will not be allowed without COTP Boston, MA approval.

XII. Small Recreational Vessels Traveling Far Offshore To Avoid Entering the Plant May Be Forced Into Rough Seas.

Some comments expressed concerns that the size of the proposed zones would force small recreational boats far offshore as they transited around it, posing a danger even in moderate weather. The revised boundaries of the zones will allow mariners to use traditionally available routes and transit much closer to shore as they pass across the front of the plant, as close as approximately 500 yards.

XIII. The Coast Guard Needs To Ensure Strict Interpretation of the Boundaries of the Zones

Some comments expressed concerns that local and state law enforcement assisting the Coast Guard might misinterpret the boundaries of the zones or not uniformly enforce them. The Coast Guard has a long history of working with local and state authorities in the enforcement of safety and security zones. The public can be certain that any agency assisting the Coast Guard will appropriately enforce the boundaries of the zones.

XIV. Allowances Should Be Made for the Event a Boat or Fishing Gear Is Forced Into the Zones By Inclement Weather

Some comments sought information on how fishermen could retrieve gear that happened to drift into the zones, or what would happen to a vessel if it were accidentally forced into the zones by bad weather. The Coast Guard understands that accidental or unforeseen situations sometimes arise. The Coast Guard will make allowances for vessels to enter the zones to retrieve gear, and will not typically take enforcement action against vessels forced into the zones by inclement weather, except to remove them from the zones. In all cases, it is expected that mariners who have a legitimate need to enter the zones will request permission in advance of entering.

Regulatory Evaluation

This 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).

The Coast Guard expects the economic impact of this rule to be minimal enough that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant because there is ample room for vessels to navigate around the zones in Cape Cod Bay, and due to the reasons enumerated under the *Discussion of Comments* section.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, fish, or anchor in a portion of Cape Cod Bay. For the reasons enumerated in the *Discussion of Comments* section above, these safety and security zones will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Dave Sherry, Marine Safety Office Boston, at (617) 223–3000.

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

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

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.

Civil Justice Reform

This 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

The Coast Guard analyzed this 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 pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.115 to read as follows:

§ 165.115 Safety and Security Zones; Pilgrim Nuclear Power Plant, Plymouth, Massachusetts.

(a) *Location.* All waters of Cape Cod Bay and land adjacent to those waters enclosed by a line beginning at position 41°57′5″ N, 070°34′42″ W; then running southeast to position 41°56′40.5″ N, 070°41′4.5″ W; then running southwest to position 41°56′32″ N, 070°34′14″ W; then running northwest to position 41°56′55.5″ N, 070°34′52″ W; then running northeast back to position 41°57′5″ N, 070°34′42″ W.

(b) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters or land area within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: May 16, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–13550 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles–Long Beach 02–011]

RIN 2115–AA97

Safety Zone; Offshore Gran Prix powerboat race, Long Beach, California

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of Long Beach Outer Harbor, Long Beach, California, for the Second Annual Long Beach Offshore Gran Prix powerboat race. This safety zone is needed to provide for the safety of the crews and participants of the race and to protect the participating vessels. Persons and vessels are prohibited from entering into or transiting through this safety zone unless authorized by the Captain of the Port.

DATES: This rule is effective from 12 p.m. to 3 p.m. (PDT) on June 2, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP Los Angeles-Long Beach 02–011) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/ Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Jessica Walsh, Waterways Management Division, at (310) 732–2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Final details for the event, including the racetrack coordinates and event dates and times, were not provided to the Coast Guard in time to draft and publish an NPRM or a final rule 30 days in advance of its effective date. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the safety of the participant vessels, their crew, and spectators.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The precise location of the event necessitating the promulgation of this safety zone and other logistical details surrounding the event were not finalized until a date fewer than 30 days prior to the event. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the safety of the participant vessels and their crew.

Background and Purpose

The Second Annual Long Beach Offshore Gran Prix powerboat race is scheduled to be held from 12 p.m. to 3 p.m. (PDT) on June 2, 2002. This safety zone is needed to provide for the safety of both the contestants and the estimated 100 spectator vessels expected to attend this event. This new rule differs slightly from last year's rule in three ways. First, the date of this year's event is 15 days earlier than last year's event. Second, at the request of the local pilot organization, the location of the racecourse was adjusted to the North slightly to encompass less of the commercial anchorage grounds in the Port of Long Beach. Finally, the location of the racecourse was adjusted to the East slightly to allow for a wider traffic fairway for non-participants transiting between the Long Beach downtown marinas and Long Beach gate.

Discussion of Rule

The Coast Guard is establishing a safety zone within the navigable waters of Long Beach Outer Harbor around the offshore oil islands. The area of the safety zone will commence at latitude 33°45′46″ N, longitude 118°10′11″ W; thence proceed to 33°44′48″ N, 118°11′03″ W; thence to 33°43′50″ N, 118°10′08″ W; thence to 33°43′50″ N, 118°08′06″ W; thence to 33°44′56″ N, 118°07′40″ W; thence returning westerly along the shore to the point of origin. [NAD 1983] This safety zone allows for a fairway from the Long Beach downtown marina to Long Beach Gate, and will allow vessels to transit from Alamitos Bay east of the racecourse.

Persons and vessels are prohibited from entering into or transiting through this safety zone unless authorized by the Captain of the Port. By prohibiting all vessel traffic from entering the waters surrounding the racecourse, the risk of high-speed collision will be greatly reduced. U.S. Coast Guard personnel will enforce this safety zone with assistance from the Coast Guard Auxiliary and the Long Beach Gran Prix event staff.

Regulatory Evaluation

This 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).

Since the rule will be in effect for only a short duration, during the time of the Gran Prix event, the Coast Guard expects the economic impact of this rule to be so minimal that full regulatory evaluation under paragraph 10 (e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

We expect this rule will not affect small entities. This rule is closing a small portion of the waterway only for a limited period of time. The rule provides for a fairway from the Long Beach downtown marina to Long Beach Gate, and allows vessels to transit to and from Alamitos Bay east of the racecourse.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 discretionary regulatory actions. 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add § 165.T11–067 to read as follows:

§ 165.T11–067 Safety Zone; Offshore Gran Prix powerboat race, Long Beach, California.

(a) *Location.* The following area constitutes a safety zone within the navigable waters of Long Beach Outer Harbor around the oil islands: commencing at latitude 33°45′46″ N, longitude 118°10′11″ W; thence to 33°44′48″ N, 118°11′03″ W; thence to 33°43′50″ N, 118°10′08″ W; thence to 33°43′50″ N, 118°08′06″ W; thence to 33°44′56″ N, 118°07′40″ W; thence returning westerly along the shore to the point of origin. [NAD 1983]

(b) *Effective period.* This section is effective from 12 p.m. to 3 p.m. (PDT) on June 02, 2002. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via broadcast notice to mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Los Angeles-Long Beach, California or his designated representative.

Dated: May 22, 2002.

G.P. Cummings,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Los Angeles-Long Beach, California.

[FR Doc. 02–13513 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AK66

Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: In a document published in the **Federal Register** on February 14, 2002 (67 FR 6872), we amended VA's adjudication regulations to provide for payment of special monthly compensation for a woman veteran who loses one or both breasts as a result of service-connected disability. The document contains typographical errors in the "Note" at the end of diagnostic code 7626 in § 4.116 "Schedule or ratings—gynecological conditions and disorders of the breast." This document corrects those typographical errors.

DATES: *Effective Date:* This correction is effective March 18, 2002.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Policy and Regulations Staff (211A), Compensation and Pension, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: In rule FR Doc. 02–3677, published on February 14, 2002 (67 FR 6872), make the following correction:

PART 4—[CORRECTED]

§ 4.116 [Corrected]

On page 6874, in column 1, in § 4.116, in the entry for diagnostic code 7626, immediately following "Note: For VA purposes:" remove the horizontal rule and remove the superscript designations 1 through 4 and add, in their place, paragraph designations (1) through (4), respectively.

Approved: May 21, 2002.

Roland Halstead,

Acting Director, Office of Regulatory Law.

[FR Doc. 02–13285 Filed 5–29–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE04

Endangered and Threatened Wildlife and Plants; Reclassification of Certain Vicuña Populations From Endangered to Threatened With a Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reclassifying the vicuña *Vicugna vicugna*) in Argentina, Bolivia, Chile, and Peru from endangered to threatened under the U.S. Endangered Species Act (Act or ESA) of 1973, as amended. The recently introduced population of Ecuador,

treated as a distinct population segment under the Act in accordance with the Service's Policy on Distinct Vertebrate Population Segments (61 FR 4722), will remain listed as endangered.

We also establish a special rule (under Section 4(d) of the Act) allowing the importation into the United States of legal fiber and legal products produced with fiber from vicuña populations listed as threatened under the Act and in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), if certain conditions are satisfied by the exporting (*i.e.*, range country) or re-exporting country. Importation into the United States of legal fiber and legal products made from fiber that originated from threatened, Appendix II vicuña populations will require valid CITES export permits from the country of origin and also the country of re-export, when applicable. We are aligning U.S. importation practices with those approved by the CITES Parties, in order to facilitate effective conservation of the vicuña in range countries, and the enforcement and management efforts of those countries.

This rule *requests* range countries to submit a country-wide Management Plan prior to exporting to the United States. The special rule *requires* range countries exporting specimens of vicuña to the United States for commercial purposes to provide the Service with an annual report. The Service will conduct a review every two years, using information in the annual reports and other available information, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction or suspension of trade. Based on the results of its review, the Service may administratively restrict or suspend trade from a range country if it determines that the conservation or management status of the threatened vicuña population in that range country has changed, such that continued recovery of that population may be compromised.

If, at any time after the effective date of the special rule, the conservation or management status of threatened vicuña populations changes in one or more range countries such that those vicuña populations are not continuing to recover, the potential exists to administratively suspend the approval of imports under the special rule.

EFFECTIVE DATE: This final rule is effective on July 1, 2002. The special rule in 50 CFR 17.40(m) is effective on July 1, 2002.

ADDRESSES: The complete file for this rule is available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in Room 750, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Kurt A. Johnson, Division of Scientific Authority, U. S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, DC 20240 [phone: 703–358–1708; fax: 703–358–2276; e-mail: *fw9ia_dsa@fws.gov*].

SUPPLEMENTARY INFORMATION:

Note: Portions of the original proposed rule and proposed special rule were re-written to conform to the new Federal policy on the use of "plain English" in Federal documents. However, the original intent of the text remains the same. Some text in the proposed rule has also been amended in this final rule in response to comments submitted by the public (see "Comments Received" below), and additional technical information that we have gathered since publication of the proposed rule.

Background

The vicuña (*Vicugna vicugna*) was listed as endangered under the U.S. Endangered Species Act on June 2, 1970. Among other things, that listing prohibited U.S. interstate and international commerce in vicuña products. The vicuña was included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975 (the date of entry into force of CITES), which thereby prohibited all primarily commercial, international trade in vicuña products. Certain populations of vicuña in Chile and Peru were transferred to CITES Appendix II at the sixth meeting of the Conference of the Parties to CITES (COP6) in 1987. The remaining vicuña populations of Peru were transferred to Appendix II in 1994 at the ninth meeting of the Conference of the Parties (COP9), and certain populations in Argentina and Bolivia were transferred to Appendix II in 1997 at the tenth meeting of the Conference of the Parties (COP10). These transfers to Appendix II, reflecting improved conservation status for the specified vicuña populations, allowed the resumption of commercial, international trade—under carefully controlled conditions—of vicuña fiber and products manufactured from vicuña fiber. This international trade, however, is still excluded from the United States, because of the species' listing as endangered under the ESA, a stricter domestic measure than CITES. The United States supported the above transfers of the specified vicuña populations to Appendix II, based on information contained in the supporting statements for the various CITES amendment proposals. The relevant CITES amendment proposals and their supporting statements are available on request from the Division of Scientific Authority (see **ADDRESSES** Section).

The vicuña produces a fiber of very fine texture (about 12 microns in diameter) that can be woven into luxury garments. Raw fiber from vicuña has been legally auctioned at up to US $500 per kg (US $200 per lb) and an average vicuña fleece provides about 0.2 kg (0.5 lbs) of fiber. Individual vicuña thus have a fleece that is worth many times that of a sheep and several times that of other species in the family Camelidae, such as alpacas and llamas. This high value, in a resource-poor area, can represent both a threat to the species and an opportunity for economic development and sustainable management. The threat comes from illegal hunting if protection and incentives for management are poor. The opportunity exists if proceeds from the sale of vicuña fiber from live-shorn animals are substantially used to conserve and protect vicuña by enhancing the economic well-being of native people in the Andean highlands, and by linking that improved economic status directly to conservation and sustainable use of the vicuña, and recovery of vicuña populations.

We received a petition on October 5, 1995, from the President of the International Vicuña Consortium, an association of companies in the fiber industry, requesting that the vicuña be removed from the U.S. list of endangered and threatened wildlife, or reclassified with a special rule that would allow for commercial trade that would benefit the conservation of the species. The petitioners cited the following reasons for the requested action: (1) Improved management of vicuña populations, (2) improved enforcement and trade controls, and (3) recognition that regulated commerce could be beneficial to both rural communities that share landscapes with vicuñas and the vicuñas themselves. The petitioners provided limited supporting documentation.

Our 90-day finding on whether the petition presents substantial information and our 12-month finding on whether the petitioned action is warranted were subsumed within the proposed rule, which was published in the **Federal Register** on September 8, 1999 (64 FR 48743). In the proposed

rule we found that: (1) Reclassification of the vicuña from endangered to threatened was warranted for all range countries except Ecuador; and (2) that a special rule (also referred to as a 4(d) rule) was warranted for all threatened, Appendix II populations, with the exception of the Appendix II "semi-captive" populations of Catamarca, Jujuy, La Rioja, Salta, and San Juan Provinces in Argentina, which were specifically excluded until such time as their conservation benefit for wild vicuña was demonstrated adequately.

We based our findings and the proposed rule on information provided in the petition, the supporting statements for the aforementioned CITES amendment proposals, other published literature and articles, and the Service's status review of the vicuña. This status review included interviews with knowledgeable persons from the vicuña range countries, responses to questions asked of authorities in each range country, and a 1997 on-site assessment of vicuña populations and management in Argentina, Bolivia, Chile and Peru, which was prepared by a contractor (Dr. Henry L. Short) working for the National Fish and Wildlife Foundation (NFWF). The Service contracted with NFWF to evaluate the conservation and management status of vicuña populations, and to make recommendations about the species' status. All personal communications and question responses cited in the text of the final rule were received by Dr. Short, unless otherwise noted (see "References Cited" section).

Through information obtained during the public comment period, we have learned that the "semi-captive" populations of Argentina are actually populations of semi-domestic vicuña that are maintained in fully-fenced enclosures of a few hectares (ha). Peru also has "semi-captive" populations, but they differ from those of Argentina in being populations of wild vicuña maintained in fully-fenced enclosures of up to 1,000 ha. Chile may soon begin establishing "semi-captive" populations similar to those in Argentina, but perhaps in slightly larger enclosures. Hereafter in this document we refer to all of these fenced populations as "captive" populations or "captive" herds, and to this type of management as a "captive" management system, operation, or program. This will distinguish them from "wild, free-ranging" populations or herds, and "wild, free-ranging" management systems, operations, or programs.

Comments Received

The formal public comment period on the proposed rule closed on December 7, 1999. Much additional information was contained in the 85 comments we received during the public comment period. Comments pertaining exclusively or primarily to vicuña in a single range country are summarized below under each country. Comments of a more general nature or pertaining to vicuña in more than one range country are summarized immediately below.

Comment: The Cashmere and Camel Hair Manufacturers Institute (Mr. Karl Spilhaus), Loro Piana, N.Y. (Mr. Pier L. Guerci), Northern Textile Association (Mr. Karl Spilhaus), and Warren Corporation (Mr. Roberto Modica), wrote in support of reclassification of the vicuña populations of Argentina, Bolivia, Chile, and Peru from endangered to threatened. Their principal argument is that opening of the U.S. market will create a powerful economic incentive for sustainable management and conservation of vicuña populations in the areas covered by the proposed reclassification.

Response: While we agree that opening of the U.S. market may create an economic incentive, we are also aware that such incentive can be either a positive force or a negative force for conservation of vicuña in the wild. The ESA requires that we ensure, to the best of our ability, that it be a positive force for conservation. We agree that the vicuña can and should be used sustainably. Any decision on downlisting a species from endangered to threatened must be primarily based on the biological status of the species in the wild, and the five listing factors in the Act.

Comment: Dr. Henry L. Short and Mr. Joseph Ramos provided specific comments on various aspects of the proposed rule and proposed special rule. Dr. Short stated that the Service erred in considering vicuña populations in Argentina, Bolivia, Chile, and Peru to be threatened until they are fully recovered, because we did not define "fully recovered population" and any range state should have the right to determine the population level that they wish to achieve and sustain. Dr. Short also objected to excluding the captive populations of Argentina from the special rule; he believes that the captive management operations are advantageous to wild vicuña populations. Finally, Dr. Short felt that the Service should exercise restraint when demanding information from and making management recommendations to range countries. The Service should only request information that is necessary for making a determination under the ESA. Most of Mr. Ramos's comments were similar to those of Dr. Short, but he also commented on protection and management of the vicuña, and about possible disease transmission.

Response: We agree with Dr. Short and Mr. Ramos that we did not define "fully recovered population." However, if any of the range countries have set recovery goals for vicuña populations, we are not aware of it, nor were any such recovery goals provided to us during the comment period. Our use of the term "fully recovered" was meant in the context of ESA standards for determining if a species is threatened or endangered, not in the context of its recovery to historical population levels or its satisfying range country recovery goals. Although any range state has the right to determine the population level they wish to achieve and sustain, we have an obligation under the ESA to determine if that population qualifies for threatened or endangered status in terms of the five ESA listing factors.

Section 4(d) of the Act requires that a prohibited activity, such as the import of fiber or fiber products from a threatened vicuña population, have a demonstrable conservation benefit before it is allowed under a special rule. When we published the proposed rule (reclassification) and proposed special rule, we felt that available information was inadequate to determine that the captive vicuña populations in Argentina were contributing to conservation of wild vicuña populations. Therefore, these populations were excluded from the proposed special rule, but with an appeal for additional information that would assist us in making our final determination. Likewise, we are always trying to obtain the best information available in regard to the five listing factors specified in the Act. That is why the proposed rule included a request for any additional information that range countries could provide on habitat, vicuña population numbers and utilization, disease and predation, existing regulatory mechanisms, and other factors. We base our decision here on the best available scientific information. We note that detailed information has been received from South American biologists with extensive expertise on this species. Based on this additional information, captive populations in Argentina have been included in the final rule.

Comment: Dr. Paul J. Taylor supported the proposed reclassification, but had a number of specific comments. Dr. Taylor agreed with the previous two

commenters in stating that the Service had erred in excluding the captive vicuña populations of Argentina. He believes the Service has adopted unreasonable criteria in judging Argentina's vicuña policies. He also believes it is unreasonable to expect that the conservation benefits of Argentina's management system must be proved. Dr. Taylor feels that vicuña are "not as wild as most wild species," and believes that the time is coming when commercial vicuña ranching in many countries of the world will co-exist with effective continuing conservation of wild vicuña populations in their historic range. Finally, Dr. Taylor discussed the possibilities of embryo transfer from vicuña into llamas as a tool that could dramatically increase the number of vicuña in managed populations. He feels that frozen vicuña embryos can and should provide a safe way of creating vicuña herds in parts of the world where they have never existed.

Response: We believe that we have adopted reasonable criteria in evaluating the status of vicuña populations. We are not endorsing range countries' policies, but, rather, we are evaluating the status of populations in those countries. The ESA requires that a special rule be promulgated only if it is "necessary and advisable for the conservation of the species." Thus, a special rule that allows international commercial trade must have demonstrated conservation benefits; it is not sufficient for a special rule to be neutral in terms of its impact on conservation or to only have potential benefits. We consider the vicuña to be a wild species in every sense. We are aware that the species was domesticated in the past, resulting in the domestic alpaca (Jane Wheeler, IVITA, Facultad de Medicina Veterinaria, Universidad Nacional Mayor de San Marcos, Lima, Peru, pers. comm. with K. Johnson, Division of Scientific Authority (DSA), 2000), and does not need to be domesticated again. We do not support or advocate the development of commercial ranching operations for vicuña, especially ranching operations outside the species' natural range. We find that such operations would undermine the conservation efforts of range countries to sustainably utilize this species. Likewise, the special rule does not provide for the importation without an ESA permit of live vicuña, or of embryos, gametes, or tissue samples of vicuña. We do not intend to encourage such imports as a means for establishing populations outside the species' natural range, because of our concern that such populations could undermine range country conservation efforts and preclude any benefits to local indigenous communities. For those reasons, and the fact that they are still in Appendix I of CITES, the special rule precludes imports without a threatened species permit for live vicuña, and for embryos, gametes, and tissue samples of vicuña.

Comment: Dr. Bill Jordan of Care for the Wild wrote that trying to farm vicuña cannot succeed because they do not thrive at a lower altitude.

Response: Dr. Jordan's comment is duly noted.

Comments Related to Argentina

Approximately 60 comments received in response to the proposed rule pertained exclusively or primarily to vicuña in Argentina.

Comment: The Government of Argentina (Victoria Lichtschein, Directora de Fauna y Flora Silvestres, Secretaria de Recursos Naturales y Desarrollo Sustentable) expressed the view that the draft proposed rule goes beyond the provisions of CITES for species included in Appendix I. It is not a presently accepted condition for the transfer of a species from Appendix I to II to demonstrate that such transfer will benefit the wild populations of that species. Rather, it must be demonstrated that the proposed use will not harm the wild species. Argentina noted that it would be practically impossible to demonstrate that breeding operations in Europe or the United States have any benefit for the wild populations of the species. Argentina also expressed the opinion that it would be virtually impossible, due to cost and complexity of the task, to determine if decreases in grazing by domestic livestock were having a beneficial effect on wild vicuña populations. Argentina is also implementing an Action Plan for the Fight Against Desertification, and these activities should be kept in mind when evaluating Argentina's efforts to improve the habitat of the vicuña. Argentina stated that, in general terms, the utilization of the species and the high value of the products that may be obtained from it no doubt constitute an incentive for the species' conservation. This concept, which is the basis of sustainable utilization, may be demonstrated reliably only through monitoring the wild populations, which are plainly on the increase.

Response: We appreciate Argentina's detailed commentary on our proposed rule, but we must emphasize that the proposal involves the vicuña's listing under the ESA and not CITES. An endangered listing under the ESA is not equivalent to an Appendix I listing under CITES, nor is a threatened listing under the ESA equivalent to a CITES Appendix II listing. The U.S. List of Endangered and Threatened Wildlife is not equivalent to CITES Appendices I and II. CITES is an international convention, while the ESA is domestic legislation. Each has its own set of implementing regulations within the United States, as well as criteria for listing. The ESA has many provisions that are stricter than CITES, thus it is considered a "stricter domestic measure" allowable under provisions of Article XIV of CITES. Threatened species are generally covered by all prohibitions applicable to endangered species under section 4(d) of the Act (see discussion in "Available Conservation Measures" section). We may promulgate special rules if the activities allowed therein are deemed necessary and advisable to provide for the conservation of the species. Furthermore, under CITES, the criteria for transferring species from Appendix I to II require far more information than a finding of non-detriment. The non-detriment finding is required for export of CITES Appendix II species; the listing criteria are more detailed (and can be found in CITES Resolution Conf. 9.24).

We do not believe that the information we requested to address conservation is too difficult or too costly to obtain. In the proposed rule and other correspondence, we have specifically mentioned a number of possible indicators of conservation benefit, including: (a) A reduction in poaching of wild vicuña in areas with captive vicuña populations; (b) improvement in habitat conditions as a result of decreased domestic livestock numbers in areas with captive populations; (c) documented decreases in the number of domestic livestock in the immediate vicinity of captive populations; and (d) whether some of the funds generated by the sale of fiber from captive vicuñas are allocated to conservation programs for wild vicuñas. Any of these indicators could be useful in demonstrating consistency with the conservation purposes of the ESA. Some of the indicators we have mentioned are basic, and the relevant information could be obtained with minimal effort.

We have considered Argentina's anti-desertification efforts in development of the final rule.

Comment: The Comision Regional de las Provincias Vicuneras provided five specific comments on the proposed rule and proposed special rule. First, the Comision stated, captive management diminishes poaching pressure for fiber, and could meet the demand for fiber for craft use for an important sector of the

population of the vicuña provinces. The vicuña provinces, which have a great craft tradition, see captive management as an important alternative for obtaining fiber that can later be exported to a country where demand is high, such as the United States. Captive management allows the majority of the wild vicuña population to remain in a wild state, constituting a large genetic pool and permitting normal evolution of the species. Second, most wild vicuña populations exist in protected areas or in areas of low human population density. The implementation of the relevant regulations is accomplished by provincial wildlife authorities, provincial and national protected areas agencies, and the security forces of the National Gendarmes. Although, in the 1997 CITES proposal the national population of vicuñs was estimated to be 32,000, the latest census has estimated a population of 50,000 wild vicuñs. Third, the intent of the management system is to get local residents to change from introduced domestic ruminants to vicuña. Fourth, the faunal legislation of each province assures the protection of the vicuña, and generates special funds in order to achieve the objectives of conserving fauna in general and the vicuña in particular. Among the national and provincial protected areas for vicuña, there are three Biosphere Reserves in three separate provinces.

Response: We appreciate the comments from the Regional Commission of Vicuña Provinces. We do not understand how captive herds can meet the demand for vicuña fiber for local craft use. We understand that the fiber produced by captive vicuña populations in Argentina is sold to a single company based in Buenos Aires; the fiber is not retained locally and does not satisfy local craft demand. Thus, local demand for fiber apparently still exists.

We appreciate that local authorities are implementing laws and regulations to the best of their ability, and that the National Gendarmes have succeeded in reducing poaching of wild vicuña. We question the accuracy of the total population estimate of 50,000, considering that certain vicuña populations have reportedly declined substantially in the last few years due to drought (Dr. A. Canedi *in litt.* to FWS 1999). We have not seen any reports that would corroborate this population estimate on the basis of a scientifically-sound survey. We believe it unlikely that captive vicuña management will replace domestic livestock management on the Puna, at least in the near future. We understand that, at present, only about 20 individual ranchers have captive herds established with vicuña from CEA INTA at Abra Pampa (see below). Apparently there are not enough captive vicuña at Abra Pampa to establish many more captive herds at the present time.

Comment: Dr. Gustavo Rebuffi, Director of the Campo Experimental de Altura (CEA) of the Instituto Nacional de Tecnologia Agropecuaria (INTA) (High-Elevation Experiment Station of the National Institute of Agricultural Technology) located at Abra Pampa in Jujuy Province, wrote in support of the captive management system developed and implemented by the CEA (hereafter referred to as the INTA captive management system, program, or model; this program is described in greater detail in the "Argentina: Population Utilization" section). Dr. Rebuffi provided specific comments on the proposal, and attached a summary of his doctoral dissertation "Characterization of Vicuña Wool Production in the Argentine High Plateau." According to Dr. Rebuffi, there are no demonstrated adverse effects associated with captive management. Rather, the benefits of captive management are enormous for the conservation of wild vicuñas, among many reasons, because the market prefers to be supplied with legal wool. Dr Rebuffi stated that poaching in Argentina has almost disappeared since the captive management program was initiated, and the wild population now numbers close to 50,000. The National Gendarmes has entered into an agreement to cooperate in the implementation of INTA's captive management program, and the Vicuña Convention recognizes captive management as a valid option for the species. Dr. Rebuffi said that there are no genetic or disease problems associated with captive management, and that vicuñas in captivity have their health guaranteed by good veterinary care. Dr. Rebuffi also cited economic benefits of the captive management program for those persons with captive herds. He believes that the INTA captive management program is not more widespread because there are not enough vicuña in captivity, otherwise it would displace the domestic livestock alternative over time.

We also received comments in support of the INTA captive management program from a number of individuals, including: 14 current or former employees of CEA INTA; 6 other employees of INTA; 12 agronomists, animal production agents, economists, rural extension agents, or veterinarians in northwestern Argentina (Salta and Jujuy Provinces) some of whom are possibly INTA employees; 8 individuals who have captive vicuña populations provided by CEA INTA; one rancher; one former director of natural resources of Salta Province; one zoo director; one professor at Catholic University of Argentina; one reproductive technologist; one agricultural engineer; one "advisor"; and one foundation representative. These commenters primarily emphasized the economic benefits that would accrue to poor residents of the Argentine Puna from allowing the import of vicuña fiber into the United States. Many commenters mentioned that captive vicuña were maintained in healthy condition, and that there was little if any mortality associated with fiber harvest. Many commenters also noted that captive management operations reduce poaching pressure on wild populations, and that this alternative could lower the numbers of domestic livestock on the Puna rangelands.

Response: Clearly, a tremendous amount of work has gone into development of the INTA program. While we appreciate and support the need to address the socioeconomic plight of poor residents of the Argentine Puna, the ESA is principally concerned with the conservation of threatened and endangered species in the wild. We understand that the INTA captive management system has been developed primarily in the context of a rural development program for small producers in the Puna of Salta and Jujuy, and, therefore, places great emphasis on the economic betterment of the local people. This is a vital concern. However, in relation to listings under the ESA, economic arguments are only important in the context of providing direct or indirect conservation benefits for listed species.

We note that the INTA captive management model (i.e., the development of individual captive herds) is based on the socio-economic system of the Argentine Puna. However, we also understand that only around 20 individual ranchers have captive herds, so the number of people benefitting from this program is small in comparison to the total number of local Puna residents. The number of captive herds is not likely to increase substantially in the near future. We believe that one cornerstone of successful sustainable use programs is sustainable economic benefits for a broad spectrum of local indigenous people, not just a few.

We recognize that the majority of captive populations are probably well maintained and in good health, and that mortality associated with shearing is

probably low. However, we are aware of one instance where most of the animals in a captive population died because the animals were sheared in winter and developed pneumonia soon thereafter. We continue to welcome documentation that captive populations reduce poaching pressure on wild populations.

Comment: Dr. Arturo Canedi of the Centro de Estudios & Investigaciones de Uso Sustentable of the Universidad Nacional de Jujuy wrote to support the captive management of vicuña in Argentina. He stated that the vicuña population of Olaroz-Cauchari Reserve in Jujuy Province has exhibited a logistic growth curve since monitoring began in 1987, and now exceeds the carrying capacity of the environment. That, added to a drought in 1996–1998, has produced a grave decline of the population (from 6,500 in 1995 to 4,800 in 1998). This situation has been repeated in other provinces. Drought is the environmental variable that has the greatest impact on recovering vicuña populations. Dr. Canedi stated that rational utilization of the species requires establishment of a culling process whereby live animals can be captured to repopulate other potential areas, and implementation of systems of captive management. These require creation of an infrastructure adequate to provide drinking water and increase the carrying capacity of the corrals in order to mitigate the effects of drought.

Response: We appreciate Dr. Canedi's new information on population declines in the Olaroz-Cauchari Reserve in Jujuy Province resulting from drought. Although we agree that management in a sustainable utilization program may involve the translocation of vicuña from one location to another, we believe that translocations should be based on previously-developed protocols that consider the possible population, genetic, and disease consequences of translocation. We are not aware that Argentina, or any other vicuña range country, has developed such protocols. The provision of drinking water and improvement of range conditions within corrals would entail extra costs, and takes management one step further away from natural conditions.

Comment: Pelama Chubut (Mr. Carlos Leers), an Argentine company dedicated to commercialization of fiber from South American camelids, wrote in support of including the INTA captive management program in the special rule. The company has invested significant funds to finance "Productores Minifundistas" who do not have funds to invest and who cannot get credit from a bank or financial institution. The company has decided to have a stake in this undertaking, associating itself with producers to obtain the fiber, and guaranteeing the producers a competitive price at the international level.

Response: We understand that this company has invested in the captive management operations in northwest Argentina (by providing loans to individual ranchers to purchase fencing material for the vicuña corrals), and therefore has an economic interest in the success of this program. We also understand that the loans are repaid through fiber sales to the company. Although such an arrangement may assure a competitive price to the ranchers, it may also put them at a disadvantage by preventing them from seeking or obtaining the highest possible economic return from their vicuña fiber. It does not appear that the company contributes any proceeds from sales of vicuña fiber or fiber products to conservation programs for wild vicuña.

Comment: Dr. Bibiana Vila of Profauna, Conicet, Universidad Nacional de Lujan, provided a number of specific comments regarding vicuña populations and conservation in Argentina. She expressed opposition to the captive management system of Argentina, principally because it alters the process of natural selection in vicuña, and because it does not provide the claimed social and economic benefits to campesino (peasant) communities. She provided a paper she presented at a camelid conference in Cuzco, Peru (Vila 1999) arguing that "wildness" in vicuña is a characteristic essential to the species' conservation and management. Lilian Villalba, a Bolivian member of the Grupo Especialista en Camelidos Sudamericanos (GECS—South American Camelid Specialist Group) of the World Conservation Union/Species Survival Commission (IUCN/SSC) expressed concern over the captive management system in Argentina for biological and socioeconomic reasons. She stated that, on a biological basis, captive management does not guarantee vicuña conservation, and may result in changes to captive populations through artificial selection and intensive management. Also, from a socioeconomic standpoint, captive populations require a major investment that communities cannot afford, and benefits a reduced number of people. Finally, she opined that captive management focuses more on economic gain than on conservation of the species in the wild, and allows private companies to become involved to the detriment of local communities. In this way captive management may foster increased poaching rather than reduce it.

Response: We appreciate these comments from South American scientists with significant expertise in this species. We agree that it is not desirable to re-domesticate the vicuña through artificial selection in captive management systems. We do not have enough information to determine the exact financial return realized by individual ranchers participating in the INTA captive management program, but it appears that most or all individual ranchers have taken loans from, and, therefore, are indebted to the company that also purchases their fiber. We understand that only around 20 individual ranchers are participating in the INTA program, so the number of people realizing a benefit from this program is very small in comparison to the total number of Puna residents. The number of captive herds is not likely to increase substantially in the near future. However, there is another captive management program—the Criadero Coquena—El Refugio de las Vicuñas of the Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos"—that appears to be benefitting an entire campesino community. This program is discussed immediately below, and in the "Argentina: Population Utilization" section. We believe that management of wild vicuña populations is the best approach to ensure ecological and equitable socioeconomic sustainability.

Comment: Dr. Silvia Puig, writing on behalf of the Grupo Especialista en Camelidos Sudamericanos (GECS), stated that GECS regards management of wild, free-ranging vicuña populations (where wild vicuña are herded, shorn, and released in their natural habitats) as more advisable than captive management, because it implies a minor modification in natural conditions of both the species and environment, and gives greater guarantee of both sustainability and local reinvestment of revenues for social and ecological betterment. However, captive management could be compatible with conservation of vicuña populations and natural habitats if four conditions are met (see "Argentina: Population Utilization" section). According to Dr. Puig, technical evaluations to determine whether these four conditions have been met are still pending for most of the captive management operations in Argentina. Dr. Puig stated that there is one captive management operation that appears to have begun fulfilling these criteria—the Asociacion Civil de Artesanos y Productores "San Pedro

Nolasco de los Molinos" (Los Molinos). Dr. Puig noted that, among other things, Los Molinos has a structure wherein its participants share tasks and benefits of using the vicuña, has established a captive management operation (Criadero Coquena—El Refugio de las Vicuñas) in an area not immediately within occupied vicuña habitat, has conducted a vicuña population survey in the Molinos Department of Salta Province, and is interested in further developing and implementing a conservation program for the wild vicuña.

Response: We appreciate the comments from Dr. Puig on behalf of GECS, the leading organization of South American camelid specialists. We agree that programs satisfying the conditions mentioned by Dr. Puig are more likely to have a demonstrable conservation benefit, and a direct link between conservation and equitable economic benefits to local human populations, which, in our opinion, is a requisite of sustainable utilization. We agree that sustainable management of wild vicuña populations offers the best prospects for conservation and socioeconomic benefit to local populations.

Comment: The Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) provided additional information on its history and its captive management operation (Criadero Coquena—El Refugio de las Vicuñas). Significant points include: Los Molinos obtained its vicuña from CEA INTA in 1994, but does not rely on CEA INTA for technical support. Los Molinos has not accepted any financial support for developing its operation, and does not sell the raw fiber but uses the fiber to produce a finished product on site. Los Molinos has multiple participants; and is based on conservation of wild populations.

Response: Los Molinos' captive management program is based on a different model than the INTA program. The Los Molinos model includes: a component of research and conservation of wild vicuñas; an effort to "add value" to the raw fiber by producing traditional crafts, thereby increasing the financial return to the local community; and economic benefits that accrue to multiple persons rather than an individual rancher. As such, this program appears to have a demonstrable conservation benefit, and a direct link between conservation and equitable economic benefit to local peoples.

Comment: The Asociacion Criadores de Camelidos de Argentina (ACCA—Argentine Association of Camelid Raisers), the Programa Regional de Apoyo al Desarrollo de Camelidos Sudamericanos (Regional Program to Support the Development of South American Camelids), and the Fondo Internacional Desarrollo Agricola (FIDA—International Fund for Agricultural Development) all wrote in support of Los Molinos and its captive management operation.

Response: These responses indicate that Los Molinos' program has financial and technical support of a number of regional organizations.

Comments Related to Bolivia

Two comments pertained exclusively to vicuña in Bolivia.

Comment: The Government of Bolivia (Mario Baudoin Weeks, Director General de Biodiversidad, Ministerio de Desarrolo Sostenible y Planificacion) agreed with the proposal to reclassify all populations listed as endangered (Appendix I) to threatened (Appendix II) under the ESA. Bolivia noted that they intend to manage their vicuña as wild populations.

Response: We appreciate Bolivia's comments, and agree that Bolivia's population should be classified as threatened. We support the Government of Bolivia's intention to manage its vicuña as wild, free-ranging populations.

Comments Related to Chile

Three comments pertained exclusively or primarily to vicuña in Chile.

Comment: The Director de Medio Ambiente of Ministerio de Relaciones Exteriores de Chile (Rolando Stein Brygin) commented on several aspects of the proposed rule and proposed special rule. He stated that prohibiting the entry of products from animals maintained in semi-captivity will restrict management and commercialization which can be carried out autonomously by the countries affected by the proposal. The signatory countries of the Vicuña Convention have already stated and re-affirmed that semi-captive management is a valid option for managing the species. The Director further stated that Chile has a solid and substantial system for control and protection of wild fauna, and that the present Hunting Law provides the Government with necessary tools and mechanisms for control and administration of sustainable management programs for the species and/or the establishment of breeding operations, so long as hunting the vicuña is prohibited and its capture is strictly regulated. He also noted that about 81 percent of vicuña in Chile are found within protected areas, and that only about 3 percent of the vicuña in the First Region of Chile will be included in the present project on sustainable use. He does not believe that Chile, either now or in the future, will have the problem of overusing the species, since utilization will not be centered exclusively on wild specimens, but also on specimens maintained in captivity. He noted that there have been a number of chromosomal and DNA studies on the taxonomic differences between the two subspecies.

Response: We appreciate Chile's comments. We continue to have concerns about captive management systems for vicuña, because the conservation value and socioeconomic benefits of captive management have yet to be demonstrated over the long term. These concerns are discussed in greater detail in the "Chile: Population Utilization" and "Description of the Special Rule" sections that follow. With regard to the threats posed by overutilization and inadequacy of existing regulatory mechanisms, we recognize that Chile has established significant protected areas and put in place substantial regulatory mechanisms to manage the species and to control illegal harvest. For that reason we do not believe that these factors endanger vicuña populations in Chile. However, we believe that regulatory mechanisms for harvest and commercialization as part of a sustainable use program must be tested and demonstrated to be adequate before this factor can be discounted as a potential threat to the species.

Since publication of the proposed rule, we have received and reviewed additional information regarding the issue of subspecies of the vicuña. This issue is discussed in greater detail in the introductory paragraphs of the "Summary of Factors Affecting the Species" section that follows.

Comment: Cristian Bonacic, a Chilean veterinarian and wildlife biologist at Oxford University who has many years of experience working on vicuña conservation and sustainable use, questioned the conservation value and economic benefits of captive vicuña management systems. He suggested that a free-ranging management system where wild vicuña are herded, shorn, and released would be the best alternative to sustainably utilize this species.

Response: We continue to have concerns over the conservation value and socioeconomic benefits of captive management systems for vicuña. These concerns are discussed in greater detail in the "Chile: Population Utilization" and "Description of the Special Rule" sections that follow. We agree that sustainable management of wild vicuña

populations offers the best prospects for long-term conservation and equitable socioeconomic benefit to local populations.

Comments Related to Ecuador

Two comments pertaining exclusively to vicuña in Ecuador were received, both from the Government of Ecuador.

Comment: According to the submission from the Executive Director of Ecuador's Ministerio del Ambiente (Danilo Silva Chiriboga), the vicuña was first introduced in Ecuador in July 1988 (not 1993 as stated in the proposed rule), and the population had increased to 1,104 individuals as of 1999. He stated that Ecuador's goal is to have a vicuña population of 3,000 after 5 years, at which time it intends to propose that its population be downlisted to Appendix II of CITES in order to commercialize fiber production. However, according to the submission from the Wildlife Department within that Ministerio del Ambiente (Sergio Lasso B.), Ecuador will require at least 10 years to obtain a population sufficiently large to harvest fiber. The Executive Director stated that retention of the vicuña population of Ecuador as endangered under the ESA would prevent its reclassification under CITES. He further stated that the status of vicuña in Ecuador is no longer in the "experimental stage." Ecuador provided us with a copy of its report to the 19th Meeting of the Technical Committee of the Vicuña Convention, entitled "Report of the Vicuña Reintroduction Project in Ecuador" (hereafter referenced as Government of Ecuador 1999) which discusses the current status of its vicuña population.

Response: We appreciate Ecuador's comments. We continue to believe that downlisting the vicuña population of Ecuador is not warranted because of its small population size (only 1,100 animals) and its relatively recent history as an introduced population. Our rationale is discussed in greater detail in the "Distinct Vertebrate Population Segment" section. However, we also note that continued retention of this population as endangered under the ESA has no bearing on its listing under CITES, because CITES and the ESA have different implementing regulations and listing criteria. If the population of Ecuador is proposed for downlisting to Appendix II at a future meeting of the Conference of the Parties to CITES, Parties may vote to adopt that proposal. Adoption of a CITES downlisting proposal would not affect the species' status under the ESA. We would evaluate any such proposal based on the CITES listing criteria (Resolution Conf. 9.24), and not the ESA criteria.

Comment: The Vicuña Convention Resolution No. 207/99, submitted as a comment, states that the proposed rule excludes the vicuña populations of Ecuador without establishing the bases and considerations to support such restriction, demonstrating a lack of information on the status of the species in this country.

Response: We have reviewed information provided by the Government of Ecuador, including its report to the 19th Meeting of the Technical Committee of the Vicuña Convention, entitled "Report of the Vicuña Reintroduction Project in Ecuador" (Government of Ecuador 1999). We continue to believe that the vicuña population of Ecuador is properly classified as endangered, and that reclassification to threatened status is not warranted at this time (see "Distinct Vertebrate Population Segment" section).

Comments Related to Peru

Several comments pertaining exclusively or primarily to vicuña in Peru were received, including comments from the Government of Peru (Consejo Nacional de Camelidos Sudamericanos—CONACS).

Comment: CONACS (Domingo Hoces Roque) stated that vicuña must be fully and effectively used in any of the options for legal management that have been adopted by range countries, or vicuña will continue to be seen as troublesome pests that interfere with economic development. This would discourage interest in exploiting vicuña and, finally, in protecting it. Vicuña populations in "semi-captivity" in Argentina (approximately 1,000 animals) and Peru (21,301 animals in Sustainable Use Modules in 1999) represent a relatively unimportant proportion of the general vicuña population in each country (2% and 15% respectively). CONACS said that research on and changes in profitability of management options in relation to social and economic development needs may cause current management options to change over time. Therefore, the adoption of commercial restrictions is not recommended if they are based solely on one management option. In Peru, stated CONACS, the commercial exploitation of vicuña fiber, whether it comes from wild, free-ranging populations or captive populations (called Sustainable Use Modules, or SUMs, in Peru), not only generates economic income for poor rural populations, but also protects the species itself since a large part of the income goes to financing protection systems in the field through payments to community park guards, and the purchase of radio equipment, binoculars, and firearms. With an increase in fiber value, the sustainable use of the species will be assured.

In consideration of the above, CONACS made the following recommendations. First, commerce in fiber, cloth or garments containing vicuña fiber from range countries to the United States should have no more requirements and/or restrictions than those contained in the Vicuña Convention and CITES. Whatever legal management methods that have been independently adopted by range countries should be acceptable to the United States, provided that they are in line with the principles and agreements of the Vicuña Convention and CITES. Second, each range country should be subject to the same treatment in regard to trade of vicuña products with the United States. Treating Ecuador and Argentina differently would put them at a disadvantage in relation to other Vicuña Convention countries, and would promote the resurgence of poaching and the illegal market. And, third, that vicuña fiber, textiles and/or garments entering the United States should only have to meet the following general requirements: (1) That they come from vicuña populations in Appendix II of CITES; (2) that they are of fiber sheared from live animals, or in exceptional and technically justified cases, from animals taken legally and by authorization; (3) that they bear the brand, logo, and/or weave adopted and authorized by the countries of the Vicuña Convention and CITES; and (4) that they bear the official control certificates of the countries of origin, of CITES, and of others who adopt safeguarding the species by mutual agreement.

Response: We appreciate the comments of the Government of Peru. The CONACS recommendations imply that the vicuña should be delisted from the ESA, thus removing all ESA protections and limiting restrictions to only those contained in the Vicuña Convention and CITES. Although vicuña populations are growing throughout the species' range, we believe that some populations have not recovered to the point that they are no longer threatened by one or more of the five ESA-listing factors (see "Summary of Factors Affecting the Species" section). Consequently, we continue to believe that reclassification to threatened status under the ESA is the most appropriate course of action at present (except for the population of

Ecuador). We do not agree that all management systems or all countries must be treated the same in regard to trade of vicuña products with the United States, because each vicuña range country has chosen to pursue a slightly different management system, which can impact in different ways on the recovery of the species. We continue to believe that the conservation value and economic benefit of specific vicuña management systems must be tested and demonstrated over the long term before they can be approved without restriction. We agree that imports to the United States must satisfy the four points specified by CONACS; each of these points is contained in the special rule, although they are not the only requirements contained in the special rule (see "Description of the Special Rule" section).

Comment: Dr. Edgar Sanchez of La Molina University mentioned a number of potential problems with the captive management system being implemented for Peruvian vicuña populations. First, fencing populations could prevent the movement of vicuña between metapopulations, interfering with metapopulation dynamics. Second, disease problems, ectoparasites in particular, could increase. Third, there is potential for overgrazing within the enclosures (corrals) if the carrying capacity is exceeded. Fourth, there are potential genetic problems if the initial population within each enclosure is small, and if animals are translocated from one area to another without consideration of genetic consequences. Sanchez nevertheless felt that even if all proposed enclosures (SUMs) were actually constructed, they would constitute a very small percentage (less than 5%) of the total area with vicuña in Peru, so that any problems would be limited to a small area. Thus, Sanchez felt the main problem is demonstrating the biological and economic viability of the captive management system. These two goals could be achieved with an effective monitoring program for each enclosure (SUM). Sanchez believes that the most effective results, both for conservation and production of economic benefits, would be achieved with management of wild, free-ranging populations. The most successful experiences with vicuña population management (Lucanas and San Cristobal) have involved wild, free-ranging populations. Sanchez also emphasized that Peru needs to pay special attention to the vicuñas in protected areas, to ensure that there are some places where wild populations can exist without human interference with behavior and natural selection.

Response: Dr. Sanchez has identified a number of factors of concern with captive management systems. We agree that the main problem is demonstrating the biological and economic viability of captive management over the long term, and that the necessary information will only be obtained through an effective monitoring program for each SUM. We also agree that the most effective results, both for conservation and economic benefits, are likely to be achieved with management of wild, free-ranging populations. We agree that close attention should be paid to vicuñas in protected areas, and that vicuña would benefit from expansion of the size and number of protected areas throughout their range, and reduction of the level of competition with domestic livestock. See additional discussion in the "Peru: Population Utilization" and "Description of the Special Rule" sections.

Comment: Dr.Gabriela Lichtenstein of the Instituto Internacional de Medio Ambiente y Desarrollo—America Latina (IIED–AL) provided two reports summarizing her research on the two vicuña management systems currently being utilized in Peru (Lichtenstein et al. 1999a, Lichtenstein et al. 1999b). Her research team assessed and compared the captive management system (SUMs) with the wild, free-ranging management system from ecological, social, and economic perspectives, and conducted a feasibility analysis of both systems. Their findings strongly suggest that management of wild, free-ranging vicuña populations is a better alternative than captive management from all three perspectives—ecological, economic, and social. They suggested that the SUM project would greatly benefit if it were accompanied by solid research on ecological carrying capacities, and on the genetic, behavioral, and population impacts of enclosures on vicuñas. The captive management program includes an effort to translocate vicuña from areas with many animals to areas with few or none in order to encourage communities with few or no vicuñas to participate in the program; this program has potential negative genetic and disease consequences.

Response: Dr. Lichtenstein's research is the first to systematically examine and compare the costs and benefits of captive management versus wild, free-ranging management systems from ecological, social, and economic perspectives. Therefore, we attach great importance to her conclusions that, in Peru, management of wild, free-ranging vicuña populations is likely a better alternative than captive management (although we recognize that these conclusions would benefit from additional research). We agree that corrals can generate a conflict between ecological and economic interests. Corrals have a very fine line between economic viability and negative ecological impact. Additional research and monitoring of SUMs is needed to assess the ecological, economic, and social viability of the program. As mentioned above, we believe that translocations should be based on a previously-developed protocol which considers the possible genetic and disease consequences of those translocations. We are not aware of such protocols in Peru.

Summary of Factors Affecting the Species

Section 4 (a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to or deleting species from the list of endangered and threatened wildlife or changing the status of any listed species. A species shall be listed or reclassified if we determine, on the basis of the best scientific and commercial data available, that the species is endangered or threatened because of any one or a combination of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or human-made factors affecting its continued existence.

We base this final rule on an assessment of the five listing factors in the Act, utilizing the best scientific and commercial data available including information provided in the original petition, supporting statements for the various CITES amendment proposals related to vicuña, other published literature and articles, unpublished reports, the Service's status review of vicuña, and comments received during the formal public comment period. The assessment considered the present biological status of the vicuña within the range countries of Argentina, Bolivia, Chile, and Peru. The small population that has recently been introduced into Ecuador is treated separately under the "Distinct Vertebrate Population Segment" section below. We do not propose to change that population's endangered classification under the Act.

There is no scientific consensus on the number of valid vicuña subspecies. Two subspecies have been described—*V. v. mensalis* (Molina 1782 cited in Wheeler 1995) in the northern portion of the range and *V. v. vicugna* (Thomas 1917 cited in Wheeler 1995) to the south. These putative subspecies have been described on the basis of slight differences in size and color, and the lack of a prominent chest fringe in *V. v. vicugna* (Canedi and Pasini 1996). However, many authors do not accept this division, because no clearly defined geographic separation exists between the two supposed subspecies, and because they feel that genetic and phenotypic evidence does not support differentiation. Other authors feel that available genetic and phenotypic information supports the existence of two subspecies or two geographic races of vicuña. Dr. Eduardo Palma (Departamento de Ecologia, Pontificia Universidad Catolica de Chile) studied a sequence of the cytochrome b gene of the vicuña, and concluded that the subspecific separation is valid (Jane Wheeler, pers. comm. with K. Johnson, DSA, 2000). He concluded that *V. v. vicugna* is the more primitive form, and *V. v. mensalis* is closely associated with the domestic alpaca. In contrast, Dr. Jane C. Wheeler (pers. comm. with K. Johnson, DSA, 2000) studied a different sequence of the cytochrome b gene and did not identify any unique genetic markers differentiating the two supposed subspecies in the animals she sampled from Argentina, Chile, and Peru. Sarno et al. (submitted) likewise did not find molecular genetic distinctions between both subspecies in the vicuña they sampled from Chile and Bolivia.

Because the vicuña's distribution is more or less continuous from north to south, without any distinct geographic or genetic barriers defining the supposed subspecies (Sarno et al. submitted), it would be inappropriate and arbitrary to draw a boundary between the two supposed subspecies for purposes of management or listing under the Act. Both Sarno et al. (submitted) and Wheeler (pers. comm. with K. Johnson, DSA, 2000) emphasize the need to manage vicuña at the population level. Therefore, the supposed subspecies are not differentiated in this rule and the term vicuña, used herein, refers to all populations of the species throughout its total range.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Vicuña are estimated to occur at varying densities on approximately 20.5 million ha of Andean highlands extending in a rather narrow strip from central Peru through Bolivia, and into northwest Argentina (between 8 and 30 degrees South latitude). The historical range of the vicuña may have been twice the present distributional area. A small, disjunct, recently-introduced population also occurs in Ecuador.

Vicuña habitats occur in the high Andean plateau region from 3,000 to 4,800 m above sea level (Hoces 1992, Torres 1992). The habitats vary climatically on both elevational and latitudinal scales but are generally arid and cold, resulting in limited vegetation cover. Principal vegetation types are halophytic vegetation associated with salt pans, grassy steppes, shrub-steppes, and wet meadow areas (vegas) (Cajal 1992). This highland habitat has been somewhat degraded by humans and their domesticated livestock, but still represents an extensive habitat for vicuña. The average vicuña population density is very low, reflecting the limited carrying capacity of the high Andean habitats as well as the fact that many vicuña habitats are understocked. The carrying capacity of vicuña habitats varies widely, consequently vicuña tend to be patchily distributed throughout their range. Protected areas, including national reserves, national parks, and provincial reserves, are scattered throughout vicuña habitat in each of the four countries considered in this final rule.

Argentina

Vicuña distribution in Argentina includes portions of the northwestern provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan at approximately 3,200 to 4,600 m elevation (Cajal 1992). Vicuña habitats in Argentina cover a surface area of about 9 to 10 million ha (Cajal 1992, Canedi 1997, pers. comm.). During the 1800's the vicuña's distribution covered over 12 million ha of Argentina (Cajal 1992).

Vicuña in Argentina occur in three ecoregions or biogeographical provinces: Prepuna, Puna, and Altoandina (S. Puig, *in litt.* to the Fish and Wildlife Service (FWS), 1999). The Prepuna Ecoregion comprises high Andean foothills, escarpments and outcroppings; the Puna Ecoregion represents higher-elevation areas of plains or tablelands between mountain ranges; and the Altoandina Ecoregion is the highest mountains. The general area of the vicuña's distribution in Argentina is characterized by uplifted mountains surrounding extensive valleys featuring alkaline or saline flats and a rolling topography. The area is generally arid and cold (frost can occur year-round). Principal vegetation types are halophytic vegetation associated with salt pans, grassy steppes, shrub-steppes, and wet meadows (many water courses are temporary but there are occasional areas of damp ground where surface water and green vegetation in the form of rushes, grasses and a variety of succulent plants occur). Much of the thin vegetation cover over most of the Puna consists of grasses and xerophilous half-shrubs (Comisión Regional de la Vicuña 1994).

The Vicuña Provinces (Jujuy, Salta, Catamarca, La Rioja, and San Juan) have created six provincial reserves for vicuña: Laguna de los Pozuelos, Olaróz-Cauchari, Los Andes, Laguna Blanca, Laguna Brava, and San Guillermo. In Jujuy Province, Los Pozuelos Reserve was created in 1980 and consists of 308,000 ha. About 15,000 ha of this Reserve have been incorporated into the UNESCO Man and Biosphere (MAB) program as a natural area of international significance. The vicuña population in the Reserve was estimated to be 2,000 in 1992 (Cajal 1992), and 2,750 in 1997 (CITES 1997a). The Olaróz-Cauchari Flora and Fauna Reserve was created in 1981 to enhance vicuña populations and consists of 543,300 ha. The vicuña population in the Reserve in 1994 was estimated to be 6,500 and growing (Canedi 1995, CITES 1997a). Dr. A. Canedi (*in litt.* to FWS 1999) commented that a drought in 1996–1998 produced a substantial decline in the vicuña population of the Olaróz-Cauchari Reserve, from 6,500 in 1995 to 4,800 in 1998.

In Salta Province, the Los Andes Wildlife Reserve of 1.44 million ha was created in 1980. The rigorous climate restricts the human population to very low densities. Agriculture does not exist in this area, and the ranching of cattle, sheep, goats and llamas is rudimentary. A partial census in the Reserve in 1993 counted 2,000 vicuña (CITES 1997a).

In Catamarca Province, the Laguna Blanca Wildlife Reserve was created in 1979 and enlarged in 1982 to 973,270 ha at which time it became recognized by the UNESCO MAB program as a natural area of international significance. The human population is very sparse and scattered in the Reserve. The 1993 vicuña population in Laguna Blanca Reserve was estimated to be 3,505 (CITES 1997a). Rabinovich et al. (1991) studied potential biological and

economic consequences of vicuña use in Laguna Blanca Reserve.

In La Rioja Province, the Laguna Brava Reserve for Vicuñas and the Protection of Ecosystems was created in 1980 and consists of 405,000 ha. Human habitations do not exist in the Reserve, which is contiguous with the San Guillermo Faunal Reserve in San Juan Province. The 1996 vicuña population in the Reserve was estimated to be 2,187 (CITES 1997a).

In San Juan Province, San Guillermo Faunal Reserve was created in 1972 and consists of 880,260 ha. In 1982 it became part of the UNESCO MAB program as a natural area of international significance. This was the first Provincial Reserve dedicated primarily to the protection of the vicuña. The area is devoid of human and domestic animal populations. In 1992, the vicuña population in the Reserve was estimated to be 7,100 (CITES 1997a).

In Jujuy Province, several areas have been designated as "centers of protection" for vicuña, including Vilama (97,000 ha), Santa Victoria (54,600 ha), Palca de Aparzo (55,800 ha), Caballo Muerte (18,500 ha), Casa Colorado (31,000 ha), Abra de Zenta (69,000 ha) and Serranias del Chani (158,900 ha) (CITES 1997a; V. Lichtschein, CITES Management Authority of Argentina, pers. comm. with K. Johnson, DSA, 1999). We understand that these areas are not provincial reserves at the present moment (S. Puig, pers. comm. with K. Johnson, DSA, 2000), although Vilama is within the project area for a proposed, bi-national Biosphere Reserve "Lagos del Cielo de America" which has been presented to the MAB committee but not yet approved (B. Vila, pers. comm. with K. Johnson, DSA, 2000). These areas do not have any protection staff at present (B. Vila, pers. comm. with K. Johnson, DSA, 2000).

The high-altitude experimental station (Campo Experimental de Altura or CEA) of the Instituto Nacional de Tecnologia Agropecuaria (INTA) is located at Abra Pampa in Jujuy Province. This experimental station of 3,000 ha is dedicated to the development of management procedures to enhance fiber production of vicuña, assure the survival of the species, and to enhance the economic well-being of certain Puna ranchers (Rebuffi 1995).

We have little quantitative information on the extent or condition of vicuña habitats outside of protected areas in Argentina. Anecdotal information suggests that overgrazing by domestic livestock (leading to soil compaction and desertification), and direct competition for forage with domestic livestock may be important factors limiting the growth of vicuña populations outside protected areas (CITES 1997a). Other information indicates that some competition with domestic herbivores occurs in the arid Puna where precipitation is less than 300 mm per year but that competition is not as much of a problem in the humid Puna where precipitation may exceed 500 mm per year. The Argentine Government has implemented a program to combat desertification (el Programa de Acción Nacional de Lucha contra la Desertificación), which has included projects within the vicuña's distribution in Jujuy and Salta Provinces (V. Lichtschein, CITES Management Authority of Argentina, *in litt.* to FWS, 1999).

Information presently available to the Service indicates that vicuña populations throughout Argentina are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations remain threatened by this factor throughout Argentina because of ongoing problems related to overgrazing and desertification and direct competition with domestic livestock.

Bolivia

Vicuña occur in western and southwestern Bolivia in the Departments of Cochabamba, La Paz, Oruro, Potosi, and Terija (CITES 2000a). It has been suggested (DNCB 1997, pers. comm.) that vicuña may once have ranged over 13 to 16.7 million ha in the Puna and high Andean region of Bolivia before European colonization.

Vicuña are found in a number of protected areas in Bolivia. Within the National System of Protected Areas (Sistema Nacional de Areas Protegidas, or SNAP), vicuña occur in the Ulla Ulla National Fauna Reserve (240,000 ha), Eduardo Avaroa National Andean Fauna Reserve (714,745 ha), and Sajama National Park (120,000 ha) (CITES 2000a). Other protected areas with vicuña are the Huancaroma Wildlife Refuge (8,000 ha), Llica National Park (13,100 ha), Yura National Fauna Reserve (10,000 ha), and the Incakasani-Altamachi Andean Fauna Reserve (23,300 ha) (CITES 2000a).

The Bolivian Government has established Vicuña Conservation Units (VCU) for administrative and management purposes (CNVB 1996). Eight VCUs were originally established by the Instituto Nacional de Fomento Lanero (INFOL 1985); a ninth unit was subsequently added as a result of the National Vicuña Census of 1996 (CNVB 1996). These nine VCUs encompass all of the vicuña's geographic range within Bolivia, an area of 10.1 million ha (CNVB 1996). The National Vicuña Census of 1996 recorded vicuña populations in 76 "registered census areas" totaling 3,428,356 ha within the nine VCUs (CNVB 1996). These registered census areas are distributed throughout the Bolivian highlands at an elevation range between 3,600 and 4,800 m. Thirty of these registered census areas did not have any vicuña in the previous national census (1986), indicating a significant increase in the vicuña's distribution within Bolivia over a 10-year period. Sixty-nine percent of the vicuña counted in 1996 (23,393 of 33,844) occurred in the Conservation Units of Lipez-Chichas, Mauri-Desaguadero and Ulla Ulla.

The present distribution of vicuña in Bolivia is expanding, but will likely never equal the former distribution range because of habitat changes caused by overgrazing by sheep and other domestic livestock, and human developments such as roads, villages, and cities. Vicuña generally occur on communal property lands in Bolivia. In the northern highlands vicuña share habitats mainly with alpacas; in the central highlands, with cattle, sheep, llamas, alpacas and agriculture; and in the southern highlands, with llamas (CITES 1997b). Overgrazing, especially by sheep, has reduced range carrying capacity in many areas. Bolivia's Programa Nacional de Conservacion de la Vicuña (National Program for Conservation of the Vicuña) includes several measures intended to conserve and improve vicuña habitats, including the development of vicuña management plans in communal management areas and the development of Planes de Uso del Suelo (Soil Use Plans) (CITES 2000a). Bolivia also has a program to combat desertification on the altiplano, the Programa Nacional de Lucha contra la Desertificacion y la Sequia (PRONALDES) (CITES 2000a). We have no specific information on projects included in this program.

Information presently available to us indicates that vicuña populations throughout Bolivia are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations throughout Bolivia remain threatened by this factor due to overgrazing by domestic livestock and direct competition for forage with domestic livestock.

Chile

The vicuña occurs in extreme northeastern Chile in the Regions of

Tarapaca, Antofagasta, and Atacama. Most vicuña in Chile are found within protected areas. National protected areas within the Sistema Nacional de Areas Silvestres Protegidas del Estado (SNASPE) include Lauca National Park (137,883 ha), Vicuña National Reserve (209,131 ha), and Salar de Surire Natural Monument (11,298 ha) within Parinacota Province of Tarapaca Region, and Isluga Volcano National Park (174,744 ha) in Iquique Province, Tarapaca Region. Caquena Management Zone (90,146 ha) is a special management area on private lands (Bonacic 2000b). Over 96 percent of the vicuña in Chile are found within the Caquena Management Zone, Lauca National Park, and the Vicuña National Reserve within Parinacota Province (Galaz 1997, pers. comm.). These areas have typical vicuña habitats and limited human populations.

Information presently available to the Service indicates that vicuña populations in Chile are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range, but they remain threatened by this factor due to competition for forage and space with domestic livestock.

Peru

Vicuña in Peru in 1997 were estimated to occur on about 6.4 million ha throughout the 15 to 17 million ha of suitable habitat in the Peruvian highlands. Factors that could impact areas of vicuña habitat in the future include increased urbanization, successful re-introductions of vicuña into present areas of suitable but unoccupied habitat, the replacement of domestic livestock by vicuña, and large-scale watershed reclamation schemes. Vicuña are better adapted to the rigorous climatic and ecological conditions of the Puna, than are many species of domestic livestock. Overgrazing by domestic livestock remains the greatest threat to habitat conditions in the Puna (and all other ecoregions where vicuña occur).

Vicuña occur in 782,186 ha of Peruvian protected areas, including Huascaran National Park (340,000 ha), Pampa Galeras National Reserve (75,250 ha) and the Salinas and Aguada Blanca National Reserve (366,936 ha) (Hoces 1997, pers. comm.).

The Peruvian Government has embarked on a large-scale watershed reclamation and soil conservation project, the Proyecto Nacional de Manejo de Cuencas Hidrograficas y Conservation de Suelos (PRONAMACHCS), that has already negatively impacted vicuña habitats in certain areas, and has potential to impact habitats over a much wider geographic area. PRONAMACHCS's "Sierra Verde"project impacted approximately 20,000 ha of high-elevation rangelands used by vicuña within the Salinas and Aguada Blanca National Reserve through the contour terracing of natural slopes, and planting of grasses and shrubs. The contour terracing created large ditches that vicuña would have difficulty crossing (see PRONAMACHCS Web Site http://www.pronamachcs.gob.pe), and conservationists are concerned that the disturbance may cause vicuña to leave the area.

Information presently available to the Service indicates that vicuña populations in Peru are not endangered by the present or threatened destruction, modification, or curtailment of habitat or range. However, vicuña populations in Peru remain threatened by this factor as a consequence of overgrazing by domestic livestock, direct competition for forage and space with domestic livestock, and large-scale watershed reclamation schemes.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Estimates suggest there may have been 1.0 to 1.5 million vicuñas in the Andean region during the Incan period. Vicuña fiber was valued by the Incas, and although utilized by the Incas, there is no evidence that the species was exploited at unsustainable levels. After the downfall of the Inca Empire, vicuñas were slaughtered in large numbers for both meat and fiber. In the 1950's populations may still have totaled 400,000, but hunting pressures and livestock competition may have reduced the total population to around 7,000 to 12,000 individuals by 1965 (Jungius 1971). Vicuña populations have begun recovering throughout the species' range during the last 30 years (Wheeler 1995). Approximately 200,000 vicuña are now estimated to occur throughout the species' Andean highland distribution (CITES 2000a). However, this recovery has not been without setbacks due to political, economic, and environmental fluctuations. For example, vicuña numbers in Peru were at a low point in 1965, grew steadily until a prolonged drought in 1978–1979 caused numbers in Pampa Galeras to decline substantially, gradually built to high levels in 1990, were significantly reduced by illegal hunting from 1991 to 1994, while there was civil unrest in the region, and have since recovered to and even exceeded 1990 levels.

The vicuña remains a potentially easily exploited resource. It has great economic value and is a highly visible, diurnal occupant of open landscape. Some poaching for skins or subsistence hunting for meat still occurs, as does killing of vicuñas because of perceived competition with domestic livestock. These sources of mortality could have a potentially serious impact on vicuña numbers, as they have done in the past.

All signatory countries (Argentina, Bolivia, Chile, Ecuador, and Peru) to the Conveño para la Conservación y Manejo de la Vicuña (Convention for the Conservation and Management of the Vicuña, or the Vicuña Convention), have agreed not to export fertile specimens of vicuña. The sole exception has been exports to the Republic of Ecuador to aid in their vicuña establishment efforts. This was accomplished within the multilateral frameworks of both the Vicuña Convention and the CITES Convention. We believe it would be desirable if this prohibition were to be extended to embryos, gametes, and tissue samples not intended for bona fide scientific research related to conservation of the species in the wild, and not in support of range country programs. This would help prevent establishment of captive vicuña herds outside the natural range of the species, which would undermine the conservation efforts of the range countries.

Argentina

Population Status. In 1997, the vicuña population of Argentina was estimated to be approximately 32,000 animals, based on censuses completed in various protected areas between 1992 and 1996 (CITES 1997a). The most complete data were from Jujuy Province, where the Olaróz-Cauchari Reserve has been surveyed regularly since 1973–74. Estimates from protected areas in other provinces were somewhat dated and incomplete (CITES 1997a).

The vicuña population of Argentina is believed to have increased over the past 10 to 25 years. Data from the Olaróz-Cauchari Reserve showed a steady increase from about 330 individuals in 1973 to about 6,500 in 1994 (Canedi 1995). Laguna Brava Reserve also showed substantial population increases (CITES 1997a). Possible factors contributing to the population increases include the newly developed support for vicuña by some campesino communities of the Puna, the creation of protected areas, and the control of illegal hunting (Canedi 1997, pers. comm.). Dr. A. Canedi anticipates that some transplanting will occur from certain areas if populations grow to exceed carrying capacity.

In response to the proposed rule, two commenters stated that the vicuña population of Argentina is currently estimated to be 50,000 animals, however, we have not seen any reports that would corroborate this population estimate on the basis of scientifically-sound survey methodology. Vicuña populations may have actually declined during the later 1990's as a result of a prolonged drought. Dr. A. Canedi (*in litt.* to FWS 1999) stated that a drought in 1996 to 1998 contributed to a substantial decline in the vicuña population of the Olaróz-Cauchari Reserve (from 6,500 in 1995 to 4,800 in 1998). He said that similar declines had occurred in other provinces. Thus, the current population estimate for Argentina is uncertain.

Population Utilization. Poaching is not considered by national authorities to be a major problem at present (V. Lichtschein, CITES Management Authority of Argentina, pers. comm. with K. Johnson, DSA, 1999; E. Hoffman, journalist, pers. comm. with K. Johnson, DSA, 1999), although instances of poaching have been observed. Sport hunting of vicuña is not permitted in Argentina, and no permits have been issued for the capture of wild vicuñas for scientific or educational purposes.

Vicuña utilization in Argentina consists of a developing effort to sustainably use wild populations in Jujuy Province, and efforts to develop captive management programs in the provinces of Catamarca, Jujuy, La Rioja, Salta, and San Juan. Two different captive management systems are in operation in Argentina. The first has been developed by personnel of the National Institute of Agriculture and Cattle Technology (INTA) at their High Altitude Experiment Station (CEA) at Abra Pampa (Rebuffi 1995). A second captive management operation has been implemented by the Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) in the Molinos Department of Salta Province.

The CEA INTA captive management model consists of maintaining a variable number (20 to 36) of semi-domestic vicuña in fully-fenced enclosures of a few hectares. The vicuña are on loan from the CEA INTA semi-domestic herd at Abra Pampa; vicuña family groups are placed into the enclosures. The fenced enclosures are constructed on private lands with fencing material provided through loans from a private company. Individual ranchers who have been trained in vicuña management are responsible for protecting and caring for the vicuña. This model has been developed to be relevant to the conditions of the Argentine Puna where lands are owned by individual ranchers, human populations are very sparse, and vast areas of potential habitat with limited vicuña populations exist (CITES 1997a). The model is based on almost 30 years of study and experimentation with captive vicuña (Rebuffi 1995). Studies have emphasized efficient fences to contain vicuña, the determination of the carrying capacity of different range types, and the capturing and shearing of vicuña and fiber processing procedures.

Young vicuña, produced under these captive conditions, are either used as replacement stock or are returned to CEA INTA as compensation for the initial vicuña loan. The captive herds are sheared at two year intervals using the techniques developed at CEA. At the time of shearing, representatives of INTA, the Provincial Department of Renewable Natural Resources, the National Gendarmes (military police), a Doctor of Veterinary Medicine, and the fiber buyer are present to observe and/or supervise the operation. The fiber buyer in 1997 was an Argentine fiber processing company that provided the fencing materials through loans. The fiber purchase is used to retire the debt on the fencing materials, and to provide immediate payment to the individual rancher. The fiber, at the time of shearing, is weighed, bagged, marked, sealed, recorded and stored in a sealed warehouse until all commercial authorizations have been completed.

We understand that, to date, about 20 individual ranchers have captive herds established with vicuña from the captive herd at CEA INTA Abra Pampa. Apparently there are not enough captive vicuña at Abra Pampa to establish many more captive herds at the present time. Most of the captive herds have been established in Jujuy and Salta Provinces. We believe that the majority of captive populations are probably well maintained and in good health, and that mortality associated with shearing is probably low. However, we are aware of one instance where most of the animals in a captive population died because the animals (20 of 36 vicuñas) were sheared in winter and died of pneumonia soon thereafter ("Las Esquilaron en Pleno Invierno: Denuncian Muerte de Vicuñas," PREGON, San Salvador de Jujuy, Wednesday, July 28, 1999).

The production of vicuña fiber under captive conditions is said to benefit the individual campesino rancher, and is said to be growing in popularity. Proponents claim that this program benefits the status of vicuña in the wild, because the ranchers support the program and, therefore, tolerate the presence of non-captive vicuña in the provinces. The program also is claimed to have enhanced the relationship between ranchers and the National Gendarmes, which has improved protective measures for vicuña. The National Gendarmes have apparently succeeded in reducing poaching of wild vicuña, although we have not been able to obtain any quantitative information that demonstrates a clear link between establishment of captive vicuña populations and improved conservation status of wild vicuña populations. Growth of wild vicuña populations is not necessarily an indicator of the success of the captive management program, because some populations have increased in areas without captive populations, and because growth of wild populations began in some areas long before captive populations were established.

Based on information available to us, we continue to have concerns over the effectiveness of this captive management model as a conservation tool for wild populations of vicuña. The captive population at Abra Pampa has been developed from a limited number of founder animals (16 females and 6 males). Some scientists have expressed concerns over the genetic fitness of animals in this population. In the proposed rule, we expressed concern about possible genetic and disease consequences if vicuña from the Abra Pampa population were translocated to different provinces and subsequently escape to mingle with the wild population. We no longer believe that these are major threats, primarily because of the very small number of animals involved and the level of veterinary care the captive animals receive. In the proposed rule, we expressed concern that captive populations might be established in the most favorable vicuña habitat areas, thus potentially depriving wild vicuña populations of important resources such as water or forage; we no longer believe that this is a major threat, primarily because of the very small amount of land involved. We are concerned, however, that economic gains realized from sales of vicuña fiber may be used by individual ranchers to increase the size of their domestic livestock herds, thus increasing grazing pressure on vicuña habitats outside enclosures. Such a result was predicted in a study of campesino communities and vicuña utilization in Catamarca Province, conducted by Rabinovich et al. (1991), although Rabinovich cautioned that those results were site-specific.

We are not yet convinced that the INTA captive management program will

be able to provide socioeconomic benefits to a large number of people over the long term, thereby reducing pressure on wild vicuña populations, for the following reasons. We understand that only about 20 individual ranchers have captive herds, so the number of people realizing a benefit from this program is very small in comparison to the total number of Puna residents. The number of captive herds is not likely to increase substantially in the near future. We do not have enough information to determine the exact financial return realized by individual ranchers participating in the captive management program, because it varies based on the price of the fiber and the amount obtained per shearing, but average annual income appears to be in the range of US $750 to $1,100 per year per rancher. This may or may not constitute a substantial return, depending on the individual ranchers involved. However, it appears that all or most individual ranchers are indebted (for the fencing materials) to the same company that purchases their fiber. This may put the ranchers at a disadvantage in obtaining the highest price possible for their fiber. Last, it does not appear that any of the proceeds from sales of vicuña fiber or fiber products are channeled into conservation programs for wild vicuña, thus there is no direct or even indirect financial link between these programs.

The Grupo Especialista en Camelidos Sudamericanos (GECS) of the IUCN/SSC believes that captive management could be compatible with conservation of wild vicuña populations and natural habitats if the following conditions are met: (1) That habitat and food availability for free populations is not threatened by captive operations; (2) that the risk of mingling captive and wild, free-ranging vicuñas is minimized with efficient fencing and continued monitoring; (3) that local human communities have an active participation in tasks and also in revenues emerging from vicuña use; and (4) that part of these revenues be reinvested in the conservation goal. One captive management operation in Argentina appears to have begun fulfilling the criteria outlined by GECS. The Asociacion Civil de Artesanos y Productores "San Pedro Nolasco de los Molinos" (Los Molinos) has a structure wherein its 25 participating families (120 individuals) share tasks and benefits of using the vicuña, has established a captive management operation (Criadero Coquena-El Refugio de las Vicuñas) in an area not immediately within occupied vicuña habitat, has conducted a vicuña population survey in the Molinos Department of Salta Province, and is interested in further developing and implementing a conservation program for wild vicuña. Los Molinos obtained its vicuña on loan from CEA INTA in 1994, but does not rely on CEA INTA for technical support. It has not accepted any financial support for developing its operation, but has accepted a variety of technical support from different regional agencies. Los Molinos does not sell the raw fiber but uses it to produce a finished product on site.

Los Molinos' model of captive vicuña management differs from the CEA INTA management model in that it includes a component of research and conservation of wild vicuñas, attempts to "add value" to the raw fiber by producing traditional crafts, thereby increasing the financial return to the local community, and provides economic benefits to multiple persons rather than to an individual rancher. The Los Molinos program appears to have a demonstrable conservation benefit for wild vicuña populations, and a link between conservation activities and economic benefits to members of the cooperative.

Vicuña population trends throughout Argentina are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Argentina because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management.

Bolivia

Population Status. A country-wide census in 1996 recorded 33,844 vicuña in Bolivia (CNVB 1996). In 1997, the total population was estimated at about 35,500 (DNCB 1997, pers. comm.), while in 1999, the total population was estimated at 45,000 animals (CITES 2000a). Population data determined by direct and total counts of individuals on selected habitat areas are best for the three experimental pilot areas—Ulla Ulla, Mauri-Desaguadero and Lipez Chichas—whose populations were transferred to CITES Appendix II in 1997. Periodic censuses have occurred over a 30-year period for Ulla Ulla, and over a 15-year period for the other two pilot areas. Populations have been growing steadily in each area during the period that censuses have been conducted (CITES 2000b).

The Bolivian vicuña population is believed to be increasing, and perhaps has reached carrying capacity in a few areas. Population growth has been accomplished by increases in vicuña population density in known habitat areas, and population expansion into heretofore unoccupied habitat areas. It is believed that the principal reason for the growth in the general vicuña population is the protection provided by the campesino communities, especially those that have government supported game wardens.

Population Utilization. Some campesino communities in Bolivia remain hostile to vicuñas because of crop depredation or perceived competition with domestic livestock, and the fact that few economic benefits are presently realized from vicuña. Some vicuña may be killed as a consequence. In addition, vicuña are known to be poached in Bolivia (CITES 1997b). Poaching levels may be high enough to warrant concern. For examples, one person was arrested outside La Paz with 324 vicuña skins in his possession, and tour operators in remote areas claim to encounter skinned vicuña carcasses on a regular basis (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999). Game wardens report isolated cases of poaching of 3 to 20 animals (CITES 2000a). Vicuña products, including rugs made from many skins, can be seen for sale in the San Francisco Plaza in La Paz (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999). Local authorities use vicuña ponchos, scarves, and blankets, especially at traditional celebrations (CITES 1997b). The fiber used in these products comes from animals killed illegally (CITES 1997b). The granting of custodianship to local communities, and the delegation of monitoring responsibilities to the provincial governments is expected to provide a mechanism to address this issue.

Vicuña are not captured in Bolivia for educational or scientific purposes. There is no intent to have commercial meat operations as the only authorized commerce will be in fiber and fiber products from live-shorn vicuñas from wild populations.

Bolivia's National Program for the Conservation of Vicuña is in the early stages of implementation. Bolivia is developing a program for harvesting and marketing fiber shorn from wild, free-ranging vicuña; this program borrows significantly from the successful program of wild population management and utilization in Peru. The initial step of the National Program was to transfer three substantial vicuña populations in areas where campesino commitment was high (Ulla Ulla, Mauri-Desaguadero, Lipez Chichas) from

CITES Appendix I to II, with a zero quota for export. This proposal was adopted by the CITES Parties at COP 10 in 1997. The transfer allowed the development and refinement of pilot management and shearing programs that would eventually be expanded to other vicuña habitats. The second step was the conclusion of an agreement between the Programma Quinua Potosi (PROQUIPO) and the DNCB (Direcciõn Nacional de Conservación de la Biodiversidad Unidad de Vida Silvestre) to operate the Pilot Center of Sud Lipez to actually develop and demonstrate those management and shearing programs. The pilot project involves the capture and shearing of live vicuñas, and the manufacture of fabric and eventually the sale of vicuña fiber for the manufacture of textiles to demonstrate the potential economic benefit to campesino communities. The third step was the removal of the zero quota for export at COP 11 in 2000; this would help provide the basis for implementing the program on a more widespread basis. Bolivia subsequently reported an export quota of 1.975 kilograms for 2000 with the CITES Secretariat. A fourth step, a proposal to transfer all remaining populations in Bolivia to Appendix II (CITES 2000a), was presented at COP 11 but withdrawn because of opposition by the other Vicuña Convention countries. That proposal is likely to be re-submitted at a future COP, perhaps COP 12. With approval of such a program the live-shearing program could be expanded country-wide.

Vicuña population trends throughout Bolivia are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Bolivia because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management. Vicuña currently occur on approximately 3.4 million ha in Bolivia, whereas their potential range in Bolivia has been estimated at approximately 10 million ha (INFOL 1985 cited in CITES 2000a). Although vicuña will never occupy that range fully, due to habitat changes, grazing by domestic livestock, and human developments, there still appears to be considerable room for continued vicuña population recovery in Bolivia.

Chile

Population Status. Over 96 percent of the vicuña (19,200 of an estimated 19,850) in Chile occur in Parinacota Province in the extreme northeastern portion of the country. The populations in the Caquena Management Zone (estimated to be 3,700 vicuña) and in the National Vicuña Reserve (estimated to be 8,050 vicuña) in this Province were transferred to CITES Appendix II in 1987; these would be the only populations utilized commercially should a program to capture and shear live vicuña be initiated (Galaz 1997, pers. comm.). The adjacent population in Lauca National Park (estimated to be 7,410 vicuña) was retained on Appendix I to provide further control over vicuña in this protected natural area. The remaining four percent of Chile's vicuñas occur elsewhere in the upper Andean tablelands in northeastern Chile. About 650 vicuña are believed to occur in small scattered groups over about 215,000 ha elsewhere in the Tarapaca Region and in the neighboring Antofagasta and Atacama Regions.

The vicuña population of Chile has grown steadily since 1975 (Bonacic 2000). The vicuña population in Parinacota Province is believed to be near carrying capacity in typical vicuña habitat.

Population Utilization. The hunting, capture, and sale of vicuña and vicuña products is unlawful in Chile without the authorization of the Servicio Agricola y Ganadero (SAG–Agriculture and Livestock Service) of the Chilean government as specified in the new hunting law of 1996 (Ley No. 19.473) (Iriarte 2000). At present, there is no national or international trade in vicuña fiber, no exports of living vicuña and no known illegal trade in vicuña products. Poaching is not considered to be a problem in Chile (E. Hoffman, pers. comm. with K. Johnson, DSA, 1999).

For more than 10 years, the Chilean government investigated the development of a sustainable use program based on capture, live-shearing, and release of wild vicuña (Bonacic 2000a). Now, we understand that Chile is planning to develop a captive management program that may take up to 3,000 vicuña from the wild and maintain them in captivity in the altiplano (Galaz, pers. comm., cited in Bonacic 2000a). We do not know if, to date, Chile has actually authorized the capture of wild vicuñas to develop the program. The new 1996 law gives SAG the authority to authorize sustainable use of the vicuña when certain conditions have been met (Iriarte 2000). The only exports of raw fiber, as of 1997, were in order to obtain analyses of the fiber's physical properties (SAG 1997, pers. comm.).

Vicuña population trends in Chile are positive or stable, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. However, because a vicuña fiber industry could potentially be approved in Chile, this factor is still considered to threaten the Chilean population until such time as control mechanisms for harvest and commercialization are demonstrated to be adequate to control overutilization.

Peru

Population Status. The 1997 census in Peru estimated a population of 103,650 vicuña on 6,361,000 ha of habitat (Hoces 1997, pers. comm.) in the high Andean tablelands of the departments of Ancash, Apurimac, Arequipa, Ayacucho, Cajamarca, Cusco, Huancavelica, Huanuco, Junin, La Libertad, Lima, Moquegua, Pasco, Puno and Tacna. More recent estimates suggest a total population of around 142,000 vicuña (Bonacic 2000a), however, we have not seen any reports that would corroborate this population estimate on the basis of scientifically-sound survey methodology.

The recovery of vicuña populations in Peru has not been steady, a consequence of political, economic, and environmental fluctuations over the past 35 years. Vicuña numbers were at a low point in 1965, grew steadily until a prolonged drought in 1978 to1979 caused numbers in Pampa Galeras to decline substantially, gradually built to high levels in 1990, but were significantly reduced by illegal hunting from 1991 to 1994, while there was civil unrest in the region (Wheeler and Hoces 1997). Vicuña populations have been increasing since 1994. This is believed to be due to a combination of factors—the decrease in civil unrest in the high Andean region, increased efforts to control vicuña poaching, and the development of a vicuña fiber utilization program. Several campesino communities now participate in the protection, management and utilization of vicuña in cooperation with the National Council of South American Camelids (CONACS) and the National Institute of Natural Resources (INRENA), which is the designated CITES Management Authority for Peru.

Population Utilization. At present, legislation in Peru permits the taking of vicuña if properly authorized and technically supported. Some culling of vicuñas (about 1,000 per year) did occur from 1977 to 1983 but no quotas have

been declared and little if any legal take has occurred since that date. Any take for scientific studies is rare and, when authorized, is tightly controlled. There is no legal utilization of vicuña for meat or parts.

Commercialization of vicuña fiber products in Peru is under a system of controls that include monitoring fiber collections, governmental supervision by CONACS and INRENA, and the involvement of local campesino communities. CONACS and INRENA are responsible for protecting and monitoring vicuñas within protected areas such as Huascaran National Park, Pampa Galeras National Reserve, and the Salinas and Aguada Blanca National Reserve. The protection and monitoring of vicuñas in the rural communities is a major responsibility of participating campesino communities in coordination with CONACS and INRENA.

Two models of vicuña utilization are being pursued in Peru at the present time. The first model is based on the management of wild populations, utilizing capture methods based on the traditional "chaku," a surround technique used by the Incas to capture and shear vicuñas and release them back to the wild (Wheeler and Hoces 1997). The second model is based on captive management of vicuña. Since 1996, CONACS has been promoting the establishment of Sustainable Use Modules (SUMs) which are fully fenced enclosures of approximately 500 to 1,000 ha, each with about 250 vicuña.

The "chaku" model was the initial approach to wild vicuña population management undertaken in Peru after populations began to recover. The most successful experiences with wild vicuña population management have been in the campesino communities of Lucanas and San Cristobal around Pampa Galeras. CONACS developed the "chaku" technique for capturing and harvesting fiber from living wild vicuña at Pampa Galeras, and has taught and supervised campesino communities in this technique and other aspects of vicuña management. The process used to capture and shear vicuñas was observed in August 1997 by Dr. H. Short (on behalf of the National Fish and Wildlife Foundation) and described in the proposed rule. That description will not be repeated here, but readers are referred to the proposed rule (64 FR 48743, September 8, 1999).

At Pampa Galeras and in other areas of the Peruvian Puna, vicuñas occur on communal lands and campesinos represent a plentiful and important work force. As described in the proposed rule, vicuña management essentially provides full-time employment for many members of the Lucanas community-building fences, obtaining and cleaning fleeces, providing protection to vicuña and providing instruction to other communities wishing to establish a vicuña industry. It was reported that as part of the arrangement between the Lucanas community and the government, 500 vicuñas were used to restock vicuña habitats in neighboring communities, in exchange for both a hydro-electric project and other economic assistance. The Pampa Galeras experience has been the model for other campesino communities in Peru, and is the model for similar efforts in Bolivia.

Efforts are underway in Peru to implement a large-scale captive management program for vicuña (Lichtenstein et al. 1999b, Sahley 1999, Sahley et al. submitted). Since 1996, CONACS has been promoting the establishment of Sustainable Use Modules (SUMs), which are fully fenced enclosures (corrals) of approximately 500 to 1,000 ha, each with about 250 vicuña. We understand that long-range plans were to establish SUMs in 600 campesino communities by the year 2000 according to the Sociedad Nacional de Criadores de la Vicuña (SNV–National Society of Vicuña Breeders) (SNV 1997, cited in Sahley 1999). We do not know if this goal was achieved, but by 1999 approximately 21,000 vicuña (D. Hoces, Technical Director, CONACS, *in litt.* to FWS, 1999) were being held in approximately 250 Sustainable Use Modules in Peru (Lichtenstein et al. 1999b). Translocation of animals is involved in this management model; vicuña are relocated from areas where they are abundant to establish captive populations in new areas.

Dr. Gabriela Lichtenstein of the Instituto Internacional de Medio Ambiente y Desarrollo-America Latina (IIED–AL) and her research team assessed and compared the two vicuña management systems in Peru (i.e., captive management versus wild, free-ranging management) from ecological, social, and economic perspectives, and conducted a feasibility analysis of both systems (Lichtenstein et al. 1999b). Two projects in the Department of Ayacucho-Proyecto Barbara D'Achille, Lucanas and Proyecto de San Cristobal y aledañas-were evaluated as case studies. Their findings strongly indicate that management of wild, free-ranging vicuña populations is a better alternative than captive management from all three perspectives—ecological, economic, and social. They concluded that the economic viability of enclosures (corrals) for campesino communities is questionable, especially when the enclosures have fewer than 250 vicuñas. They characterized captive management as a high risk venture with low profit potential. Conversely, wild management was characterized as a medium to high risk investment with potential high profits. After considering the low carrying capacity of the habitat, they determined that placing more than 333 vicuñas per corral would have a negative impact on the environment and increase desertification. They noted that genetic interchange and dispersal were limited by enclosures, and expressed concern about translocating animals without paying proper attention to health and genetic concerns. They suggested that the SUM project would greatly benefit if it were accompanied by solid research on ecological carrying capacities, and on the genetic, behavioral, and population impacts of enclosures on vicuñas.

Sahley (1999) and associates (Sahley et al. submitted) have also compared the two management systems in Peru, and evaluated two projects as case studies—Tambo Cañahuas and Toccra in Arequipa. Their results are similar to those of the Lichtenstein group—that the wild, free-ranging management model (*i.e.*, capture, shearing, and release of wild vicuñas) is biologically sustainable in the short- and long-terms, and is economically more viable that the captive (corral) management model.

These two projects are the only research efforts we are aware of that have systematically examined and compared the costs and benefits of both captive and wild, free-ranging vicuña management systems from ecological, social, and economic perspectives. Therefore, we attach great importance to their conclusions, although we recognize that these conclusions would benefit from additional research. Certainly additional research and monitoring of SUMs is needed to assess the ecological, economic, and social viability of that program. We are concerned about the genetic and population dynamics implications of captive management, as well as habitat implications (*i.e.*, how are carrying capacities of corrals determined, and what happens when that capacity is reached?). We are also concerned about possible disease and genetic implications of vicuña translocations to start new populations, and believe that such translocations should be based on a previously-developed protocols that consider the possible genetic and disease consequences. We are not aware that Peru has developed such protocols. Wheeler et al. (2000) have identified

four genetically distinct groups of vicuñas in Peru. They urge caution with regard to repopulation efforts, and suggest that translocations occur within the four distinct groups rather than among the groups.

Vicuña population trends throughout Peru are positive, and populations have increased to the extent that we no longer consider them to be endangered by previous or current overutilization. We do, however, consider the vicuña to be threatened by overutilization throughout Peru because appropriate conservation mechanisms are not yet fully implemented, and populations have not yet recovered to the extent practicable, based on successful conservation and management. Vicuña in Peru in 1997 were estimated to occur on about 6.4 million ha throughout the 15 to 17 million ha of suitable habitat in the Peruvian highlands Although vicuña will never occupy that range fully, due to habitat changes, competition with domestic livestock, and human developments, there still appears to be considerable room for continued vicuña population recovery in Peru.

C. Disease or Predation

Vicuñas, like most mammals, suffer from a variety of endo- and ecto-parasites. Mange caused by parasitic mites can result in skin lesions and loss of hair, especially in those populations that coexist with domestic livestock, and during drought conditions. Major predators on vicuña include the puma (*Felis concolor*), the Andean fox or zorro (*Dusicyon culpaeus*) and perhaps the Andean condor (*Vultur gryphus*), which may kill newborn and sick animals.

Vicuña populations in the four range countries are not believed to be endangered or threatened by the impacts of disease or predation, because populations are increasing or stable and there is no evidence of widespread disease outbreaks as an actual or potential mortality factor. We remain concerned about the potential for disease transmission from vicuña that are translocated for the development of new captive populations or for release to the wild to supplement wild populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The regulatory mechanisms in place vary among the four range countries under consideration. However, all four countries are signatories to both CITES and the Vicuña Convention.

Argentina

In Argentina, the First Interprovincial Technical Conference on the Conservation of the Vicuña met in 1972, and agreed to develop methods to capture and transport vicuña to recolonize vicuña habitats, and to develop a plan for the management, shearing, and the manufacture of handicrafts from vicuña fiber. Additional meetings integrated the provincial vicuña programs, established a national program, and established the "Vicuña Regional Commission" as a mechanism to attain national coordination on the vicuña management program (Comisión Regional de la Vicuña 1994).

In 1988, Argentina signed the Vicuña Convention, and has since carried out its programs within the context of this agreement. Argentine National Law for the Conservation of Wildlife 22.421 and its Regulatory Decree No. 691, provides for vicuña protection. The Constitution of Argentina, reformed in 1994, assures the rights of the provinces over their respective natural resources, assures the rights of indigenous people to use these natural resources in traditional ways, and embraces the conservation of biological diversity and the sustainable development of natural resources.

Several laws and decrees within the Vicuña Provinces (Jujuy, Salta, Catamarca and La Rioja) list the vicuña as a protected species, establish protected areas for the species, prohibit hunting, and prohibit commercialization, transportation, or manufacturing of parts or products from hunted animals, regardless of origin. Laws and decrees also allow the installation of captive breeding operations, and the commercialization and industrialization of products from captive-bred animals (Canedi 1997, pers. comm.).

The Departments of Renewable Natural Resources for Jujuy, Salta, Catamarca and La Rioja Provinces have signed agreements with the Secretariat of Natural Resources and Human Environment and the National Gendarmes, a Federal Law Enforcement group, to enforce provisions of Provincial and National laws that prohibit illegal hunting and smuggling. The Gendarmes conduct extensive patrols in rural areas and on the borders, and have officers at the ports, airports, and borders. They are charged with conducting inspections and investigations involving the illegal trafficking of vicuña fiber. Their environmental division meets with campesinos and tries to promote the vicuña program. Although the Department of Renewable Natural Resources and the National Gendarmes may not have sufficient resources at their disposal, they are thought to be working effectively with the campesino communities of the Puna as evinced in the increase of vicuña populations of the Puna (Canedi 1997, pers. comm).

At present, the only legal vicuña fiber in Argentina is that obtained from the shearing of live vicuña from officially-authorized captive populations. We understand that a registry of authorized captive populations is maintained by the national CITES Management Authority, the Direccion de Fauna y Flora Silvestres (V. Lichtschein, pers. comm. with K. Johnson, OSA, 1999). Shorn fiber is bagged, tagged, weighed, sealed, recorded, and the government agency that supervised the shearing is identified on the bag. Fiber from an officially-authorized rancher can be directly auctioned for export, or the rancher, if an artisan, can retain the fiber, and make and sell cloth. Either the fiber buyer or the rancher-artisan would need a transport permit, and that transport permit would need to be presented when the CITES export permit is requested.

Fabric or products manufactured by rancher-artisans need to be marked with the official seals or stamps. Such fabrics or products, expected to be limited in numbers, can only be sold to licensed outlets recognized and approved by the government. The check on whether fabrics or products are made from legal vicuña fiber will be made by comparing weights of raw fiber harvested under supervised shearing operations against the combined weight of raw fiber retained by the authorized rancher-artisan and the weights of fiber products produced by that rancher-artisan. From information available to us, it appears that provincial natural resource departments are responsible for supervising shearing. However, at present, it is not clear to us which government agency approves licensed outlets for vicuña products, and which agency conducts checks of producers to ensure that only legal fiber is used in artisan products. There is apparently no national legislation that covers all aspects relating to the trade in vicuña or the administrative aspects relating to this trade (CITES 1997a).

Argentina acceded to CITES in 1981. Wild vicuña populations in Jujuy Province , and so-called "semi-captive populations" of vicuña in Jujuy, Salta, Catamarca, La Rioja and San Juan Provinces were transferred from CITES Appendix I to II at COP10, effective September 18, 1997. Exports are limited to fiber shorn from live animals, cloth

and articles made from that cloth, luxury handicrafts and knitted articles. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–ARGENTINA." All specimens not meeting the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

Articles bought by a foreign tourist at a government-authorized store are legal to export as personal accompanying baggage only after a CITES export permit containing all required information has been obtained. The only apparent control of artisan goods sold to residents of Argentina and later resold to foreign tourists is the requirement that the tourist have a CITES export permit upon return to his/her country of origin. This is also a requirement for importation of any personal effects or personal accompanying baggage by U.S. residents, under the conditions of the special rule accompanying this rule. If the fiber from an authorized captive breeder is sold at auction, the buyer, presumably a fiber-processing company, would get a permit from the Provincial Natural Resources Department. The buyer would present that permit to the National Secretary for Natural Resources and Human Environment to obtain the required CITES permit for export.

The National Gendarmes are expected to aid provincial authorities in the control of poaching, illegal trade, and transport of unauthorized products within the country and the routine inspection of products of legal origin to certify their origin. Collaboration will also be provided by the National Aeronautical Police at the country's airports to intensify inspections of commercial products and passengers.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Argentina. We do, however, consider the species to be threatened by this factor because many of the regulatory mechanisms are in early stages of implementation, we are still unclear about several aspects related to the control of trade in raw vicuña fiber and artisan products, and there appears to be no national legislation that covers all aspects relating to the trade in vicuña or the administrative aspects relating to this trade.

Bolivia

Bolivia's Programa Nacional de Conservación de la Vicuña (National Program for Vicuña Conservation, or National Program) is in the early stages of implementation. The Ministerio de Desarrollo Sostenible y Medio Ambiente (MDSMA–Ministry of Sustainable Development and the Environment) is the agency responsible for managing all renewable natural resources. The Direction General de Biodiversidad (formerly the Dirección Nacional de Conservación de la Biodiversidad—DNCB) is located within this Ministry and is responsible for policies dealing with conservation of biological diversity. This agency is responsible for executing the National Program for Vicuña Conservation.

Several laws and decrees are relevant to vicuña management in Bolivia. Bolivia and Peru signed the Treaty of La Paz in 1969 to provide a measure of international protection for vicuña (this treaty was a precursor of the current Vicuña Convention). The Agrarian Reform Act of 1953 enabled some rural communities to have private lands and other rural communities to have unfenced communal lands which are advantageous to free-roaming vicuñas. Law 12301 (Ley de Vida Silvestre, Parques Nacionales, Caza Y Pesca) passed in1975, describes the government's obligation to regulate and administer the use of wildlife resources. Law 1333 (Ley del Medio Ambiente), passed in 1992, provides for sustainable use of authorized species, based on technical, scientific, and economic information. Law 1715, passed in 1996, created the National Institute for Agrarian Reform and promoted the sustainable use of land, the promotion of practices favoring conservation and the protection of biodiversity, and the concept that lands where conservation is practiced would not be subject to expropriation.

Decreto Supremo (Supreme Decree) No. 22641 declared a complete and indefinite ban on the killing of all wildlife species, and states that the ban can only be lifted through legislation indicating the species and conditions that have lead to the lifting of the ban (CITES 1999). Supreme Decree No. 25458 of July 1999 ratified the general and indefinite ban established by Supreme Decree No. 22641, and modifies Articles 4 and 5 of that decree, related to lifting of the ban.

Supreme Decree No. 24529, passed in March 1997, authorized regulations for the protection and management of vicuñas in Bolivia. These regulations grant custodianship of vicuña populations to the rural communities (although the national government maintains ownership of the vicuña), give the rural communities the exclusive rights to use vicuña fibers, subject to the listed regulations, defines the conditions under which use of vicuña fiber is carried out, and establishes the Sistema de Vigilancia de Vicuña (SVV–System for the Protection of the Vicuña). We understand that the government has begun implementation of regulations by holding workshops in campesino communities to explain the regulations, by publishing print media guides describing the regulations and by helping campesino communities begin their compliance with the regulations (DNCB 1997, pers. comm.). We also understand that the government has begun coordinating with the National Police and military to help curb illegal activities dealing with vicuña and their products.

Under the regulations, all existing vicuña fiber products, including those in the domestic market, are to be inventoried and registered and all new products or fibers will also be registered. In the future, any non-registered vicuña products will be considered illegal. The only fiber that will be allowed for commercial purposes will be that obtained from live-shorn vicuña that have been captured according to regulations. Only raw fiber for the manufacture of cloth will be exported. Bolivia does not have a textile industry with the capability to manufacture vicuña fiber cloth (DNCB 1997, pers. comm.).

The overall management of vicuña in Bolivia is based on National Program for Vicuña Conservation. The National Program emphasizes the management and use of wild free-ranging populations of vicuña, population monitoring, and the improvement of habitat quality. Under the regulations, the harvesting of vicuña fiber will only be allowed in organized campesino communities that (1) have the rights to capture and shear vicuña and utilize vicuña fiber, and (2) have delegated authority to work with government authorities in the management and conservation of the vicuña. These campesino communities are the only legal benefactors of the sale of vicuña fiber. The National Program will be carried out in these communities. Management will be based on Planes de Manejo de la Vicuña (PMV) (Vicuña Management Plans) prepared by and for each Area de Manejo Communal (AMC) (Communal Management Area). Management plans will include population monitoring and habitat management and improvement measures. This information will be basic to decisions to conduct vicuña drives, and in the conduct of capture and shearing operations. Monitoring information will be provided by game guards and recommendations for management actions will be produced

in the campesino communities. Government authorities will be present when vicuña capturing and shearing occurs. The authorities will register the number of vicuña captured, the number shorn, the weights of fleeces, etc., and supervise the bagging, weighing, marking and sealing of vicuña fiber. This information will be provided to the CITES authorities for reference purposes and information later provided in support of export permit applications must correspond to the on-site records. The Netherlands government has provided financial support to underwrite initial efforts to implement the National Program.

The regulations also establish the SVV, which provides for the development of an inter-community network for the management and protection of the species. This network will have direct control over activities such as fiber sales, and will also have responsibilities for determining status and trends in vicuña populations. The SVV will be composed of game guards made up of local vicuña protection officers and Park Rangers who are the enforcement officers within protected areas such as National Parks. The game guards will be responsible for the protection and control of vicuña in each conservation unit. Protection and control efforts will also be supported by special units of the National Police. The DGB will regulate and coordinate the activities and participants within the SVV.

Bolivia has been a CITES Party since 1979. The vicuña populations of the Mauri-Desaguadero, Ulla Ulla and Lipez-Chichas Conservation Units were transferred from CITES Appendix I to II, with a zero annual export quota, at COP10, effective September 18, 1997. The zero quota was removed at COP11; Bolivia subsequently reported an export quota of 1.975 kilograms for 2000 to the CITES Secretariat. Exports will be limited to fiber shorn from live animals, and to cloth and articles made from such cloth, including luxury handicrafts and knitted articles. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–BOLIVIA." All specimens not meeting the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

The military will assist in patrols, inspections and the seizures of illegal products. Customs will assist in the control of the export and import of fiber at the ports of entry, border posts and airports to assure that CITES requirements are fulfilled.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Bolivia. We do, however, consider the species to be threatened by this factor because many of the regulatory mechanisms are in early stages of implementation, and because poaching continues to be a threat in Bolivia.

Chile

The existing regulatory mechanisms in Chile are dedicated to the protection of vicuña. Law No. 4.601 passed in 1929, modified by Law No. 19.473 passed in 1996, indefinitely closed the hunting season for vicuña throughout the Republic of Chile. The hunting, capturing and selling of vicuña (and vicuña parts) is outlawed. Persons possessing, transporting or involved in commercial operations with vicuña products need to prove their actions are authorized by these laws. The Servicio Agricola y Ganadero (SAG) of the Ministry of Agriculture is the CITES Management Authority, and has a Department for the Protection of Renewable Natural Resources and a Wildlife Division. Authorized customs officers (uniformed police), accredited officials from SAG, and representatives of the National Forest Corporation (CONAF) provide protection to vicuñas within the national protected areas system (SAG 1997, pers. comm.).

As of 1997, it was illegal to possess vicuña parts and products in Chile, and the only exports of raw fiber were in order to obtain analyses of the fiber's physical properties (SAG 1997, pers. comm.). Because it was illegal to possess vicuña parts and products, no mechanisms had been developed for registering or identifying raw fiber, or for establishing warehouses for storing fiber (SAG 1997, pers. comm.). At that time (1997), preliminary plans for a vicuña fiber industry, should it become authorized, indicated that the responsible party would need to provide an application to SAG indicating, among other things, the likely number of animals to be captured and sheared, the expected yield of the fiber harvest, the logistics of the capture and shearing operation, where and how the fiber would be stored and its eventual destination (SAG 1997, pers. comm.). SAG, should they approve the application, would oversee the capture process, register the quantity of harvested fiber, and seal the warehouse where the fiber was being stored. SAG would also provide the necessary export permits, after determining that the quantities for export correspond to quantities authorized and actually harvested. Preliminary plans also suggested that a mechanism would be established to deal with the production and sale of luxury handicrafts and knitted articles. That organization would be responsible for receiving the fiber, registering and offering the fiber products for sale, for recording the sale of registered craft items and providing an accounting of the sale of registered craft items (SAG 1997, pers. comm.).

We are aware that plans are currently underway to develop a captive management program in Chile, and that it is expected that vicuña will be captured from the wild and kept in captivity in the altiplano (Galaz, pers. comm., cited in Bonacic 2000a). We do not know if Chile has thus far authorized the capture of any vicuñas to develop the program. Bonacic (2000a) states that, at present, the legal, social, and ecological framework for vicuña captive management in Chile is complex and unresolved. However, the Government of Chile, in its comments to our proposed rule, stated that the present Hunting Law (Ley No. 19.473) provides Chile with the necessary tools and mechanisms for control and administration for sustainable management of the vicuña, and/or the establishment of captive breeding operations, so long as hunting is prohibited and its capture is strictly regulated.

Chile acceded to CITES in 1975. The vicuña populations of Paranicota Province, Region of Tarapaca (specifically, the populations in the Caquena Management Zone and the Vicuña National Reserve) were transferred from CITES Appendix I to II in 1987 at COP6. Any future export of vicuña products would be limited to fiber sheared from live animals in Appendix II populations and to cloth and items made from that cloth including luxury handicrafts, and knitted articles. The reverse side of cloth and cloth products would need to bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–CHILE." All specimens not meeting any of the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

We do not consider the vicuña to be endangered by inadequate regulatory mechanisms in Chile. However, because a vicuña fiber industry is likely to be approved in Chile but the adequacy of the specific regulatory mechanisms for harvest and commercialization have not yet been demonstrated, we consider that

the vicuña is still threatened by this factor in Chile.

Peru

The major breakthroughs in the management of vicuña in Peru were new laws transferring the custodianship of vicuñas to campesinos and campesino communities, giving the campesinos the responsibility to protect vicuñas, the implementation of protective measures, the determination that it was not necessary to kill vicuña in order to obtain fiber from their hides, and the development of management techniques to herd, capture, and shear living vicuñas (Wheeler and Hoces 1997). The key factor has been allowing the benefits of vicuña management and utilization to accrue collectively to campesino communities (rather than to middlemen or other individuals) (Wheeler and Hoces 1997).

The Peruvian infrastructure promoting vicuña management and commerce in vicuña fiber products includes the Consejo Nacional de Camelidos Sudamericanos (CONACS—Council of South American Camelids) which is a public, decentralized organization of the Ministry of Agriculture in charge of the promotion, standardization, and control of activities with the South American camelids. CONACS has offices in Lima and throughout the vicuña range, and is the proprietor of the trademarks "VICUÑA–PERU" and "VICUÑA–PERU–ARTESANIA." The Institute of Natural Resources (INRENA) is also a public, decentralized organization of the Ministry of Agriculture, and is in control of all renewable natural resources in Peru, and is the CITES Management Authority for Peru. The National Society of Vicuña Breeders (SNV) is a private organization which represents approximately 780 campesino communities, and coordinates vicuña management within and between campesino communities ("Communal Committees of the Vicuña") and with CONACS at both regional and national levels (Hoces 1997, pers comm.).

Several national laws protect vicuña and regulate its management. Law 26496, passed in 1995, has been especially important as it promotes protection and provides penalties for the illegal hunting of vicuña, gives the custodianship of vicuña herds that occupy campesino community lands to those campesino communities, and allows the campesinos to be responsible for the conservation, management and the utilization of the species. The law also establishes the Official Registry of the Vicuña which provides a record-keeping process that controls and tracks volumes of fiber from the time the vicuña are sheared in the field to the time that fiber is sold as cloth or merchandise on the international market. Pertinent laws are implemented through the "Communal Committees of the Vicuña" which form the basis for the national conservation and management of the vicuña. There is a system of park rangers shared by groups of communities and these park rangers can access the National Ecological Police and Peruvian Army units to help control the illegal killing of vicuña.

CONACS and INRENA authorize and control management activities, including vicuña capture. The shearing, collecting, processing and commercialization of vicuña fiber from wild vicuñas or from groups contained within permanent enclosures, is controlled by CONACS and INRENA. The processing and commercialization of the fiber is done by a single company that obtained that right through a competitive bidding process at a supervised auction. A cooperative agreement exists between the SNV, and the company winning the competitive bid, apparently to ensure that campesino communities will be correctly represented in the distribution of monies from the sale of vicuña fiber and fiber products. There is an authorized shearing season, and shearing is supervised by personnel representing CONACS, SNV and INRENA. Pertinent information is gathered at the time of shearing, and a report describing the shearing operation (numbers of animals, fiber weights per animal, etc.) and signed by a representative of the Communal Committee and CONACS, becomes part of the record at the Official Registry of the Vicuña.

After vicuña populations in Peru began to recover, management was initially based on wild, free-ranging populations, utilizing capture methods based on the traditional "chaku," a surround technique used by the Incas to capture and shear vicuñas and release them back to the wild (Wheeler and Hoces 1997). Since 1996 CONACS has promoted a captive management program where up to 250 or more vicuñas are maintained in enclosures of approximately 500 to 1,000 ha (Lichtenstein et al. 1999b, Sahley 1999, Sahley et al. submitted). Described in a Ministry of Agriculture project entitled "Programa de fortalecimiento de la competitividad communal en la crianza le vicuñas," this program significantly changed the management orientation in Peru from wild, free-ranging populations to captive populations. This approach has detracted from the management of wild vicuña populations, and has cost campesino communities more than $2 million to build fences—incurring a substantial debt in the process—while little has been spent strengthening anti-poaching efforts (Sahley et al. submitted).

In September 2000, then-President Fujimori issued a Supreme Decree (Decreto Supremo No. 053–2000–AG, titled "Facultan al Ministerio a traves del CONACS, entregar en custodia y usufructo hatos de vicuña y/o guanaco a personas naturales y juridicas, distintas de comunidades campesinas") that, among other things, extended custodianship of vicuña to all persons having vicuña on their lands, and not just campesino communities as specified in Law 26496. This Decree appears to undermine the very basis for recent vicuña management in Peru—management by campesino communities, with benefits accruing to those communities—by allowing other individuals or companies with land holdings to commercialize fiber from vicuña on their lands. The SNV adamantly opposes this Decree, and is working to get the new government to drop or reverse it.

A second source of legal fiber is from vicuña that die from natural causes or are found or obtained by campesinos or park rangers, or from skins that are seized in successful anti-poaching operations. Such specimens, to become legal, must be declared to SNV and CONACS, and entered into the vicuña registry. Legal fiber is gathered and stored in private warehouses belonging to the campesino communities, registered in the vicuña registry, and is under the control of CONACS. Illegal fiber is prevented from entering commerce because it is not registered with the vicuña registry, and consequently not included in the fiber stores represented in the single legal auction. The vicuña registry records weights of fiber sheared or collected, carded or cleaned, and these weights are used by CONACS and SNV throughout the processing and commercialization process to indicate whether final products likely only contain legal fiber. The CITES Management Authority controls commerce by requiring records of fiber weights and opinions from CONACS before any products (fiber, cloth or articles) can be legally either imported or exported from Peru.

The processing of vicuña fiber and the commercialization of vicuña products involves a joint venture "Association in Participation" between SNV and the consortium that won the right to commercialize the vicuña fiber. We

understand that the consortium has the unilateral right to acquire fiber at least through 2002 (Lichtenstein et al. 1999b). The SNV provides the fiber to the consortium which includes a Peruvian company that fabricates cloth from the vicuña fibers, which is then sent to an Italian manufacturing plant where luxury clothing items are produced. A second Italian firm then handles the promotion and marketing of the finished vicuña products (Hoces 1997, pers. comm.). CONACS supervises production to guarantee that all articles will contain 100 percent vicuña fiber. This process is designed to maximize the financial returns from the vicuña fibers; the profits from the final sales are distributed, under the supervision of CONACS and INRENA, to the campesino participants. Additionally, a percentage of the final sale price on the completed product goes to the campesino communities. As of 1997, raw vicuña fiber was selling for approximately $500 per kilogram in Peru; current prices are around $300 per kilogram (Lichtenstein et al. 1999b, Sahley et al. submitted).

The vicuña populations of Pampa Galeras National Reserve and Nuclear Zone, Pedregal, Oscconta and Sawacocha (Province of Lucanas), Sais Picotani (Province of Azangaro), Sais Tupac Amaru (Province of Junin), and Salinas Aguada Blanca National Reserve (Provinces of Arequipa and Cailloma) were transferred from CITES Appendix I to II in 1987 at COP6. All remaining Peruvian vicuña populations were transferred to Appendix II in 1994 at COP9, effective February 16, 1995. All exports are limited to cloth fabricated from the 3,294 kg (7,260 lbs) of stored fiber present in November 1994 or from the fiber stores obtained from the recent authorized shearing of live animals or from dead animals listed in the vicuña registry, and items made from that cloth and to certain luxury handicrafts and knitted articles produced in Peru. The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the Vicuña Convention and the words "VICUÑA–PERU–ARTESANIA." This trademark will also occur on all luxury artisan products and knitted articles of vicuña fiber. Peru also plans to add to the produced articles, a seal or identification tag with codes indicating the origin of the product, the assigned trademark or label and the CITES permit number. All specimens not meeting any of the above conditions are considered to be included in Appendix I and subject to the prohibition against primarily commercial trade, and other CITES Appendix I requirements.

The vicuña is not considered to be endangered by inadequate regulatory mechanisms in Peru. The species is, however, considered to be threatened by this factor, especially in light of the potential threats posed by Supreme Decree No. 053–2000–AG.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Vicuña are susceptible to extended periods of drought. Vicuña populations in Argentina may have actually declined during the later 1990's as a result of a prolonged drought. Drought conditions or extremely degraded ranges adversely impact vicuña by causing them to seek new habitats with the possible dissolution of some family groups, reductions in reproductive success, and perhaps increased mortality.

The great potential threat to the vicuña is that pelts can be easily obtained from poached animals and that the fiber industry may actually prefer the longer fibers that can be obtained by soaking and pulling hairs from pelts, rather than the clipped hairs from legal fleeces (Canedi 1997, pers. comm). The vulnerability of the vicuña to political instability is well documented. For example, vicuña populations in Peru were estimated at about 80,000 in 1988, but were reduced to low levels from 1989 to 1993 when vicuña fiber from poached animals was used to help finance guerilla activities.

The vicuña represents one of the most significant natural economic resources available in many Andean highlands that have limited human populations with limited economic opportunities at their disposal. Indigenous people fully realize that a poached vicuña can be used once but that the managed, live-sheared vicuña can be used repeatedly (Wheeler and Hoces 1997). Assigning the responsibility of vicuña management to campesino ranchers and/or campesino communities and granting those people the opportunity to legally realize economic gains from their management and protection efforts represents a significant bio-political decision.

Distinct Vertebrate Population Segment

The definition of "species" in section 3(15) of the Act includes ". . . any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." Distinct vertebrate population segments for purposes of listing under the Act are defined in the Service's February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DVPS) (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.*, is the population segment, when treated as if it were a species, endangered or threatened?). International borders may be used to delineate discrete population segments where there are significant differences in: (1) The control of exploitation; (2) management of habitat; (3) conservation status; or (4) regulatory mechanisms on each side of the border (61 FR 4722). Discrete population segments can also be defined by marked physical, physiological, ecological, or behavioral separation from other populations of the same taxon.

We recognize the vicuña population of Ecuador as a distinct vertebrate population segment for purposes of listing under the ESA. The vicuña population of Ecuador was established only recently, beginning in 1988, through the introduction of animals translocated from Argentina, Bolivia, and Chile. This introduction was accomplished within the multilateral frameworks of both the Vicuña Convention and the CITES Convention (Ecuador is a Party to both). To date, we are unaware of any verified palaeontological, archaeological, anthropological, or historical evidence that the vicuña ever occurred in Ecuador prior to this introduction. According to Wheeler (1995), vicuña remains have not been found in either palaeontological deposits (Hoffstetter 1986 cited in Wheeler 1995) or archaeological sites (Miller and Gill 1990 cited in Wheeler 1995) in Ecuador. There may be some vague references in Spanish colonial documents, but these are not verified. Despite the recent origin of its population, for purposes of consideration under the Act, we consider Ecuador to be part of the range of the species.

The vicuña population of Ecuador is geographically isolated (disjunct) and separate from other vicuña in Argentina, Bolivia, Chile, and Peru. Ecuador's population remains listed in CITES Appendix I, and plans to commercially utilize the species in the future appear to be uncertain. Furthermore, the Parties to the Vicuña Convention view this as a separate population, worthy of special recovery efforts. Although the countries of the region that are Parties to the

Vicuña Convention view this as an "experimental" population, that should not be seen in the domestic U.S. context of experimental populations under the Act, where criteria and definitions differ. For these reasons, the Ecuadoran population of vicuña satisfies the discreteness and significance criteria of the DVPS Policy, and, therefore, merits treatment as a distinct population segment under the ESA. Furthermore, because of its small size, recent origin, and uncertain management and protective status, we continue to believe that this population warrants a classification of endangered under the Act.

In contrast to the rather strict requirements for listing entities (species, subspecies, or distinct vertebrate population segments) under the ESA, CITES has retained a degree of flexibility in the listing process through the use of annotations. There is no specific requirement that populations be delimited by national borders or marked biological differences. CITES Article I defines a species as "any species, subspecies, or geographically separate population thereof", and different populations of a species can be listed in different CITES Appendices (although it is generally discouraged). Thus, it has been possible to transfer sub-national populations of vicuña in Argentina, Bolivia, and Chile from Appendix I to Appendix II. This accounts for the lack of perfect symmetry between populations determined to be threatened and those currently listed in Appendix II of CITES.

Summary of Findings

The Service finds that the vicuña is a highly vulnerable species whose populations are generally increasing over a large area of the high Andean tablelands of Argentina, Bolivia, Chile and Peru. The current status of the vicuña appears attributable to decisions made in the range countries to protect and, more recently, to sustainably use this species with direct involvement of local people and communities. Laws, decrees, and infrastructures have been or are being developed to help local people manage and protect the species. In return the local people are beginning to receive, or appear likely to receive, socio-economic benefits from that management that will benefit both individuals and their communities. The management and protection accorded to the vicuñas, by local people in cooperation with governmental entities, provides the best opportunity for the vicuña to survive as a species and as a very important part of the Puna and Altoandina ecosystems.

In developing this rule, we have carefully assessed the best available biological and conservation status information regarding the past, present, and future threats faced by vicuña. Criteria for reclassification of a threatened or endangered species. found in 50 CFR part 424.11(d), include extinction, recovery of the species, or error in the original data for classification. Available information indicates that the vicuña is not endangered (in danger of extinction) in all or a significant portion of its range. The population of Ecuador, a distinct population segment under the Act in accordance with the Service's Policy on Distinct Vertebrate Population Segments, remains endangered. Available information further indicates that the vicuña remains threatened throughout its range by: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) previous or current overutilization; and (3) the possibility of inadequately controlled harvest pressures, including poaching, in Argentina, Bolivia, Chile, and Peru. A reclassification of the vicuña from endangered to threatened under the Act will, with the attendant special rule, allow carefully regulated commerce of vicuña products into the United States. Funds generated in range countries by opening the United States market should help provide the resources necessary to enhance the conservation and management of the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition of conservation status, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed to be listed or is listed as endangered or threatened and with respect to its proposed or designated critical habitat, if any is being designated. However, because the vicuña is not native to the United States, no critical habitat is being proposed for designation with this rule. Currently, with respect to vicuña, no Federal activities, other than the issuance of CITES re-export certificates, are known that would require conferral or consultation. According to the CITES Convention, Appendix-II species need only a CITES export permit issued by the exporting country for their importation into another country. However, because of its listing as endangered under the Act, the importation and exportation of specimens of *Vicugna vicugna* presently require an Endangered Species Act permit issued by the Division of Management Authority. Consequently, a consultation with the Division of Scientific Authority is currently required before the Division of Management Authority can issue any import or export permit for vicuña.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Sections 4(d) and 9 of the Act, and implementing regulations found at 50 CFR part 17.31, (which incorporate certain provisions of 50 CFR part 17.21), set forth a series of prohibitions and exceptions that generally apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (within U.S. territory or on the high seas), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees or agents of the Service, other Federal land management agencies, the National Marine Fisheries Service, and State conservation agencies (50 CFR part 17.21(c)(3) and part 17.31(b)).

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR part 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: scientific research, enhancement of propagation or survival, zoological exhibition or education, incidental taking, or special purposes consistent with the Act. All such permits must also be consistent with the

purposes and policy of the Act as required by section 10(d). Such a permit will be governed by the provisions of § 17.32 unless a special rule applicable to the wildlife (appearing in § 17.40 to § 17.48) provides otherwise. Because a special rule is being promulgated concurrently with this reclassification, permits will be issued under section 10 only for bona fide scientific research contributing to conservation of the species in the wild (*e.g.*, blood samples for genetic analyses or tissue samples for disease diagnosis). No additional permits are required as a result of this rule; rather, this rule removes restrictions.

Threatened species are generally covered by all prohibitions applicable to endangered species, under 50 CFR part 17.31. We may, however, develop special rules if deemed necessary and advisable to provide for the conservation of the species. The special rule described here for § 17.40 allows commercial importation to and re-exportation from the United States of certain specimens from threatened populations of vicuña which are also listed in CITES Appendix II. Importation could be restricted in the future from a particular country of origin or re-export if that country has been identified as a subject to a recommended suspension of trade by the CITES Standing Committee or at a CITES Conference of the Parties. Interstate commerce within the United States and re-export of legally imported vicuña parts will not require U.S. threatened species permits.

Effects of This Rule

This rule revises § 17.11(h) to reclassify *Vicugna vicugna* from endangered to threatened in Argentina, Bolivia, Chile and Peru to reflect more accurately the present status of this species.

Description of the Special Rule

The intent of the special rule is to enhance the conservation of the vicuña through support for properly designed and implemented programs for vicuña conservation throughout their native range. The special rule is intended to support appropriate conservation efforts of the four range states of Argentina, Bolivia, Chile, and Peru, by encouraging certain of their management programs that allow utilization of vicuña fiber from live-sheared animals, with benefits accruing to local communities.

We believe that the most effective results, both for conservation of vicuña and production of economic benefits for local people, are likely to be achieved with management of wild, free-ranging populations, such as the systems being undertaken in certain parts of Peru and in Bolivia. We continue to have concerns about captive management systems for vicuña, especially the extensive captive management program being undertaken in much of Peru, because the conservation value and socioeconomic benefits of captive management have yet to be demonstrated as sustainable over the long term (Lichtenstein 1999, Sahley 1999). Our conservation concerns relate to issues of disease transmission, genetic effects, impacts on population dynamics and social organization, and habitat impacts. We believe that the best opportunity for captive management is provided by the management recommendations of the South American Camelid Specialist Group, and we believe that demonstration of the long-term biological and economic viability of captive management will require (1) further research by trained ecologists, geneticists, sociologists, and economists, and (2) an effective monitoring program for the captive management systems.

These concerns notwithstanding, we believe that progress has been and is being made, and that range countries should be allowed time to demonstrate the conservation value and related socioeconomic benefits of the management system or systems they have adopted. From a law enforcement perspective, it would be difficult if not impossible for the United States to allow importation of fiber only from wild management systems and exclude fiber from captive management systems, especially if both wild and captive management occur in a single country. Thus, the special rule pertains to all threatened, Appendix II populations. The special rule has provisions that are intended to encourage range countries to demonstrate the conservation value of the management system or systems they have adopted. The special rule: (1) *Requests* range countries wishing to export to the United States to submit a country-wide Management Plan for vicuña; (2) *requires* range countries to submit an annual report documenting the status of vicuña populations and implementation of management programs in each country; (3) calls for the Service to conduct a biennial review of range country management programs to determine if those programs are effectively achieving conservation benefits for the vicuña; and (4) can be administratively suspended if the conservation or management status of threatened vicuña populations change in one or more range countries such that continued recovery of vicuña populations is compromised.

The special rule allows commercial importation and re-exportation into/from the United States of certain products (raw, unprocessed vicuña fiber or cloth, or items made from that fiber, including luxury handicrafts and knitted articles) that are properly identified, and have accompanying valid, legal CITES Appendix II export permits or re-export certificates. Under the special rule, a threatened species permit for individual shipments would not be required under 50 CFR part 17 for these products only. To be imported, vicuña products must originate in populations that are listed both as threatened under the Act and in Appendix II of CITES. Vicuña fiber and products from Appendix I populations, as well as any live vicuña, embryos, gametes, and tissue samples, are not covered. Their importation would still require a threatened species permit, a CITES Appendix I import permit (issued by the U.S.), and an Appendix I export permit.

We are aware that there have been poaching and illegal trade problems with this highly valuable species in the past, and any loss of control would seriously undermine the conservation programs of the range countries, thereby potentially jeopardizing vicuña populations. Therefore, we will not allow the import of vicuña products from threatened, Appendix II vicuña populations from countries of origin or countries of manufacture or re-export that have been determined by the CITES Conference of the Parties or the CITES Standing Committee not to be effectively implementing the Convention. Specifically, the special rule prohibits importation from countries of export or re-export that have either (1) failed to designate a Management Authority or Scientific Authority, or (2) have been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the Secretariat as a country from which Parties should not accept CITES permits. Trade restrictions or a suspension of trade can be placed on a range country if the Service administratively determines that the conservation or management status of vicuña in that country has changed such that continued recovery of vicuña populations is compromised as a result of one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

The decision will be made by the Service's Division of Scientific Authority, and the Service will inform range countries and re-exporting countries if a suspension goes into effect, and will post the decision on our web site.

For vicuña and vicuña products, there is no personal effects exemption in the special rule, since the CITES listings (and associated annotations) specifically do not allow for a personal effects exemption. The specific removal of the personal effects exemption for Appendix II populations was adopted by the CITES Parties at the request of range countries, to assist their enforcement efforts. Therefore, items purchased by travelers overseas or personal items owned by people moving to the United States will require appropriate CITES export documents (permits or re-export certificates) from countries of export or re-export, to be imported legally into the United States. This is based on analysis of the annotation for the vicuña in the official CITES Secretariat list of the CITES Appendices, and dialogue with the CITES Secretariat in Geneva. It is also based on domestic law of the four range countries, which all require CITES export documents, even for items purchased by tourists. The vicuña annotations in the CITES Appendices are unique, and require that only certain products be exported from the range countries, under very strict conditions. In Argentina, articles bought by a foreign tourist at a government-authorized store can be exported as personal accompanying baggage only after a CITES export permit has been obtained. In countries of re-export as well, very strict controls are required. The items manufactured from vicuña fiber are very expensive luxury articles, and illegal trade poses a serious risk to the species and the conservation programs of the range states. Furthermore, all range countries require CITES permits for export of vicuña products, and do not recognize any personal effects exemption. It would be inappropriate and unfair to require export documents from range countries but not from countries of manufacture (re-export). Therefore, all tourist souvenirs or other personal items require a CITES export document from the country of export or re-export in order to be legally imported into the United States. We have clarified this in the final special rule, which may have been unclear in the proposed rule.

All vicuña products must comply with all product annotations as described in the CITES Secretariat's official annotated list of the CITES Appendices (available at http://www.cites.org). If those product annotations change at a future meeting of the Conference of the Parties (COP) to CITES, the Service will have to re-evaluate its 4(d) rule. The criteria for determining if a vicuña product is properly identified are drawn directly from the CITES Appendices, and the product annotations for vicuña contained therein. For cloth and cloth products, the only products that can be imported are those where the reverse side of cloth and cloth products bear the logo adopted by countries signatory to the Conveño para la Conservación y Manejo de la Vicuña (Vicuña Convention), and the words "VICUÑA–(Country of Origin)" (country of origin of the vicuña fiber in the products—Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only). For finished vicuña products (including luxury handicrafts and knitted articles) and any bulk shipments of raw fiber, the product or shipment must have a seal or identification tag with codes describing the origin of the vicuña product, the trademark or label ("VICUÑA—(Country of Origin)" or "VICUÑ–PERU–ARTESANIA") and the CITES export permit number. These criteria for properly identified vicuña products are contained in the CITES Appendices themselves. The product annotations were proposed by the range countries and adopted by the CITES Conference of the Parties. Therefore, we are aligning U.S. importation practices with those approved by the CITES Parties, in order to facilitate effective conservation of the vicuña in range countries, and the enforcement and management efforts of those countries.

The Monitoring of Vicuña

Requirements of the Act for the monitoring of species also apply to foreign species (see final rule "Endangered and Threatened Wildlife and Plants; Removal of Three Kangaroos From the List of Endangered and Threatened Wildlife" published in the **Federal Register** on March 9, 1995; 60 FR 12887). Monitoring programs are conducted to ensure that species continue to fare well after delisting or downlisting occurs. These monitoring programs frequently include population and species distribution surveys, assessment of the condition of important habitats for the species, and assessment of threats identified as relevant to the species. We depend on range countries to monitor their vicuña populations. To assist in our efforts to monitor vicuña populations, we will ask range countries to submit a Management Plan (voluntary), and will require range countries to submit annual reports (mandatory).

Management Plan. Governments of range countries wishing to export specimens of vicuña to the United States for commercial purposes (Argentina, Bolivia, Chile, and Peru) will be *requested* to provide the Service with a Management Plan that specifies how vicuña are currently being managed and will be managed in that country during the period after this rule takes effect. The voluntary submission of a Management Plan will help the Service in its biennial review of country management programs (discussed in the section immediately below). For each range country, the following information should be provided in its Management Plan:

(A) Recent data on vicuña distribution, populations numbers, and population trends for the entire country, and for specific protected areas, and a detailed description of the methodology used to obtain such estimates;

(B) A description of research projects currently being conducted related to the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(C) A description of national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(D) A description, including approximate acreage, of land set aside as natural reserves or national parks that provide protected habitat for the vicuña;

(E) A description of programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: the location and population size of all wild populations being managed for sustainable use; the harvest management practices being used for each population; current harvest quotas for wild populations, if any; protocols for vicuña translocations undertaken as part of the use program; the specific financial costs of and anticipated revenues to be generated by the sustainable use program; and the anticipated conservation benefits that

will result from the sustainable use program;

(G) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: the number and location of all captive and "semi-captive" populations; the size in hectares of each captive enclosure and the number of vicuña maintained therein; protocols for vicuña translocations undertaken as part of the use program; the anticipated financial costs of and revenues to be generated by the sustainable use program; and the anticipated conservation benefits that will result from the sustainable use program (information on management of captive and "semi-captive" populations must be separate from that provided for management of wild populations).

Annual Report. Governments of range countries wishing to export specimens of vicuña to the United States for commercial purposes (Argentina, Bolivia, Chile, and Peru) will be *required* to provide the Service with an annual report that includes the most recent information available on the conservation and management status of the species, gathered by the respective range countries to fulfill their CITES scientific and management requirements. Failure to submit an annual report could result in a restriction on trade or a total suspension of trade in specimens of vicuña from the range country concerned. For each range country, the following information should be provided in the annual report:

(A) A description of any revisions to the management program, especially any changes in management approaches or emphasis;

(B) New information obtained in the last year on vicuña distribution, population status, or population trends, for the country as a whole or for specific protected areas, and a detailed description of the methodology used to obtain such estimates;

(C) Results of any research projects concluded in the last year on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics, and a description of any new research projects undertaken on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(D) A description of any changes to national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(F) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(G) A description of the current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year (*e.g.*, revenues returned to conservation activities as a result of the program, demonstrated reductions in poaching as a result of the program, or improved habitat conditions as a result of the program);

(H) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: any changes in the number and location of all captive and "semi-captive" populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (*e.g.*, revenues returned to conservation activities as a result of the program, demonstrated reductions in poaching as a result of the program, or improved habitat conditions as a result of the program). Information provided for captive and "semi-captive" populations must be clearly separate in the report from information related to wild populations;

(I) Export data for the last year.

The first annual report will be due one year after the special rule goes into effect, with subsequent reports due every year on the anniversary of that date. All information provided by the range countries will be available for public review.

The Service will conduct a review every two years, using information in the annual reports and any other pertinent information it has available, to determine whether range country management programs are effectively achieving conservation benefits for wild vicuña populations. Based on information contained in the annual reports, the Service may administratively restrict or suspend trade from a range country if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions or suspension may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

Effects of the Special Rule

Consistent with sections 3(3) and 4(d) of the Act, this rule also contains a special rule that amends 50 CFR 17.40 to allow commercial importation and re-exportation, under certain conditions, of raw (unprocessed) vicuña fiber or cloth, or items made from that fiber, including luxury handicrafts and knitted articles, without a threatened species import permit otherwise required by 50 CFR part 17, if all requirements of the special rule and 50 CFR part 13 (General Permit Procedures), part 14 (Importation, Exportation, and Transportation of Wildlife), and part 23 (Endangered Species Convention—CITES) are met.

The reclassification of vicuña to "threatened" and the accompanying special rule allowing commercial trade into the United States for certain products without a threatened species import permit does not end protection for the species. To be imported, vicuña products must originate in populations that are listed both as threatened under the Act and in Appendix II of CITES, and be accompanied by valid, legal CITES Appendix II export permits or re-export certificates that are consistent with all requirements of both CITES and

the laws and regulations of the exporting country concerned.

Commerce with the United States in vicuña products will only be allowed with countries that have designated both a CITES Management Authority and Scientific Authority, and have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question. This restriction will also apply to intermediary countries, when vicuña products are exported for manufacturing and other purposes, and the finished products are re-exported from intermediary countries to the United States. The U.S. Management Authority will provide on request a list of those countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties are asked not to accept shipments of specimens of any CITES-listed species. The list will be published on our web site *(http://international.fws.gov)*.

This special rule does not cover the importation of live vicuña, vicuña embryos, gametes, or tissue samples, because these specimens remain in Appendix I. Furthermore, we discourage most such imports, which could be used to establish populations outside the species' natural range, because we believe that such operations would undermine the conservation efforts of range countries to manage and sustainably utilize this species. Imports of blood or tissue samples for bona fide scientific research contributing to the conservation of the species in the wild could be allowed with the necessary CITES Appendix I import and export permits and a threatened species permit issued under section 10.

Trade restrictions or a trade suspension can be placed on a range country if the Service's Division of Scientific Authority administratively determines that the conservation or management status of vicuña in that country has changed, such that continued recovery of vicuña populations is compromised, as a result of one or more of the six factors listed in the preceding section (*e.g.*, a change in range country laws or regulations that lessens protection for vicuña). This provision gives the Service ability to react effectively to potential conservation concerns that may emerge, such as dramatic increases in poaching in some areas, or changes in laws or regulations that appear to be detrimental to the species in the wild, or the lack of submission of the required annual report.

The Service's Division of Scientific Authority will conduct a review every two years, using information in the annual reports, to determine whether range country management programs are effectively achieving conservation benefits for wild vicuña populations. Based on information contained in the annual reports, the Service may restrict or suspend trade from a range country if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions or suspension may result from one or more of the six factors listed in the preceding section (*e.g.*, a change in range country laws or regulations that lessens protection for vicuña).

In our judgment the protective regulations set out in the final special rule contain all of the measures that are necessary and advisable to provide for the conservation of the vicuña in Argentina, Bolivia, Chile, and Peru.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the ESA. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is Dr. Kurt A. Johnson, Division of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 [703–358–1708].

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulations Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201-4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.11(h) is amended by revising the entry for the vicuña, under "Mammals", on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Vicuña	*Vicugna vicugna*	Argentina, Bolivia, Chile, Ecuador, Peru.	Entire, except Ecudator.	T	3, 724	NA	17.40 (m)
Do	Do	Do	Ecuador	E	3, 724	NA	NA
*	*	*	*	*	*		*

3. Paragraph (m) is added to § 17.40 and reads as follows:

§ 17.40 Special rules—mammals.

* * * * *

(m) *Vicuña.* This paragraph (m) applies to the threatened vicuña *(Vicugna vicugna).*

(1) *What activities involving vicuña are prohibited by this rule?* (i) *Appendix I populations.* All provisions of § 17.31 (a) and (b) and § 17.32 apply to vicuña and vicuña parts and products originating from populations currently listed in Appendix I of the Convention

on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

(ii) *Import, export, and re-export.* Except as provided in paragraph (m)(2) of this section, you must not import, export, or re-export, or present for export or re-export without valid CITES permits vicuña or vicuña parts and products originating from populations listed in Appendix II of CITES.

(iii) *Commercial activity.* Except as provided in paragraph (m)(2) of this section, you must not sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity vicuña or vicuña parts and products from populations listed in Appendix II of CITES.

(iv) It is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit to commit, or cause to be committed any acts described in paragraphs (m)(1)(ii)-(iii) of this section.

(2) *What activities involving vicuña are allowed by this rule?* You may import, export, or re-export, or place in interstate or foreign commerce, vicuña products, consisting of either raw fiber or items and cloth made, or partially made, from vicuña fiber, without a threatened species permit issued according to § 17.32 only when the provisions in parts 13, 14, and 23 of this chapter and the requirements of the applicable subparagraphs of this paragraph (m)(2) have been met:

(i) *Import, export, or re-export.* You may import, export, or re-export into or from the United States vicuña products, consisting of either raw fiber or items and cloth made, or partially made, from vicuña fiber originating in a country authorized under paragraph (m)(4) of this section, provided the following conditions are met:

(A) The vicuña product must comply with all CITES product annotations as given in the CITES Secretariat's official list of the CITES Appendices, and all imports, exports, and re-exports must be identified as follows:

(*1*) *Cloth and cloth products:* The reverse side of cloth and cloth products must bear the logo adopted by countries signatory to the "Conveño para la Conservación y Manejo de la Vicuña", and the words "VICUÑA–(Country of Origin)" (where country of origin is the name of the original exporting country where the vicuña fiber in the products originated, either Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only).

(*2*) *Finished vicuña products (including luxury handicrafts and knitted articles) and any bulk shipments of raw fiber:* The product or shipment must have a seal or identification tag with codes describing the origin of the vicuña product, the trademark or label ("VICUÑA–(Country of Origin)" (where country of origin is the name of the original exporting country where the vicuña fiber in the products originated, either Argentina, Bolivia, or Chile) or "VICUÑA–PERU–ARTESANIA" (for Peru only), and the CITES export permit number, where country of origin is the name of the original exporting country where the vicuña fiber in the products originated.

(B) The shipment must be accompanied by a CITES permit or certificate that contains the following information:

(*1*) The country of origin, its export permit number, and date of issuance.

(*2*) If re-export, the country of re-export, its certificate number, and date of issuance.

(*3*) If applicable, the country of last re-export, its certificate number, and date of issuance.

(C) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment must have designated both a CITES Management Authority and Scientific Authority, and have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat as a country from which Parties should not accept permits. A listing of all countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties should not accept permits is available by writing: The Division of Management Authority, ARLSQ Room 700, 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service, Arlington, VA 22203. The list is also on our website (http://international.fws.gov).

(ii) *Noncommercial accompanying baggage.* The conditions described in paragraph (m)(2)(i) of this section also apply to noncommercial personal effects in accompanying baggage or household effects from Appendix II populations. Such items are treated the same as Appendix II commercial shipments, and must comply with the same documentary requirements. All other noncommercial personal effects in accompanying baggage or household effects require both a CITES Appendix I permit and a permit as described in § 17.32.

(iii) *Embryos, gametes, blood, other tissue samples, and live animals.* This special rule does not apply to embryos, gametes, blood, or other tissue samples of vicuña, or to live vicuña. Import of such specimens requires an import permit as described in § 17.32 in addition to CITES Appendix I import and export permits, and will be issued only for bona fide scientific research contributing to conservation of the species in the wild.

(3) *When and how will the Service inform the public of additional restrictions in trade of vicuña?* Except in rare cases involving extenuating circumstances that do not adversely affect the conservation of the species, we will issue an information notice that identifies a restriction on trade in specimens of vicuña addressed in this paragraph (m) if any of the following criteria are met:

(i) The country is listed in a Notification to the Parties by the CITES Secretariat as lacking a designated Management or Scientific Authority that issues CITES documents or their equivalent.

(ii) The country is identified in any action adopted by the Conference of the Parties to the Convention, the Convention's Standing Committee, or in a Notification issued by the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question.

(iii) The Service's Division of Scientific Authority administratively determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised, as a result of one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

(iv) A listing of all countries that have not designated both a Management Authority and Scientific Authority, or that have been identified as a country from which Parties should not accept permits is available by writing: The Division of Management Authority, ARLSQ Room 700, 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service, Arlington, VA 22203. The list is also on

our website (http://international.fws.gov).

(4) *What must vicuña range countries do in order to be authorized under the special rule to export to the United States?* (i) *Annual Report.* Range country governments (Argentina, Bolivia, Chile, and Peru) wishing to export specimens of vicuña to the United States will need to provide an annual report containing the most recent information available on the status of the species, following the information guidelines specified below. The first submission of a status report will be required as of July 1, 2003, and every year thereafter on the anniversary of that date. For each range country, the following information should be provided in the annual report:

(A) A description of any revisions to the management program, especially any changes in management approaches or emphasis;

(B) New information obtained in the last year on vicuña distribution, population status, or population trends, for the country as a whole or for specific protected areas, and a detailed description of the methodology used to obtain such information;

(C) Results of any research projects concluded in the last year on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics, and a description of any new research projects undertaken on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(D) A description of any changes to national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(E) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of the current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year;

(G) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: any changes in the number and location of all captive and "semi-captive" populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (information on captive and "semi-captive" populations must be separate from that provided for wild populations); and

(H) Export data for the last year.

(ii) The Service's Division of Scientific Authority will conduct a review every 2 years, using information in the annual reports, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction on trade in specimens of vicuña as addressed in paragraph (m)(3) of this section. Based on information contained in the annual reports and any other pertinent information it has available, the Service may restrict trade from a range country, as addressed in paragraph (m)(3) of this section, if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

Dated: May 21, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 020523129-2129-01; I.D. No.052202A]

RIN 0648–AQ06

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30–day period, additional restrictions on shrimp trawlers in offshore Atlantic waters west of 77 57.5' W. longitude (approximately Cape Fear, NC) and north of 30 N. latitude (just north of St. Augustine, FL). Shrimp fishermen operating in this area are required to use turtle excluder devices (TEDs) with escape openings modified to exclude leatherback turtles and are prohibited from fishing at night between 1 hour after sunset and 1 hour before sunrise. NMFS is taking this action because we have determined that higher than normal shrimping effort, particularly long tows conducted at night, and the use of less efficient TEDs by some shrimpers are the causes of extraordinarily high mortality and strandings of sea turtles that are listed as endangered or threatened. This action is necessary to reduce mortality of listed sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 24, 2002 through June 24, 2002. Comments on this action are requested, and must be received by June 24, 2002.

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

FOR FURTHER INFORMATION CONTACT: Bob Hoffman, (727) 570–5312, or Barbara A.

Schroeder, (301) 713–1401. For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone (228) 762–4591 or by fax (228) 769–8699.

SUPPLEMENTARY INFORMATION:

Background

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

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the Endangered Species Act (ESA) and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round. The use of TEDs reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713, September 14, 1995), NMFS established regulations to provide protection for leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard ("the Leatherback Contingency Plan"). Within the Leatherback Conservation Zone, NMFS may close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to § 223.206(d)(2)(iv)(A) through (C).

NMFS has recently proposed amending the sea turtle conservation regulations to provide more comprehensive protection to all sizes and species of sea turtles from trawling (66 FR 50148, October 2, 2001). A major element of the proposed amendment is the use of larger escape openings on TEDs. Recent data have shown that the current regulatory minimum opening sizes of TEDs are not sufficient to allow large green and loggerhead turtles to escape. In addition, the Leatherback Contingency Plan which was developed to ensure that larger openings would be deployed when necessary to protect leatherbacks has been insufficient because the plan is limited to a geographic area that does not always encompass areas where the larger opening is needed. Implementation of the 2 week actions specified in the plan also often lag behind the time when they are most needed.

The sea turtle conservation regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 223.206(d)(4)).

Recent Events

NMFS has been notified by the Georgia Department of Natural Resources (GADNR) that extraordinarily high numbers of threatened and endangered sea turtles have stranded, especially off southern Georgia. From May 5, 2002, through May 19, 2002, a total of 89 dead sea turtles have washed ashore along the Georgia coast (shrimp zones 30 and 31). Of these, 66 are loggerheads, 10 are Kemp's ridleys, 3 are leatherbacks, and 10 have not been identified to species. By comparison, the 12–year average of stranded sea turtles in Georgia for this 2–week period is 18, so the 89 strandings are 5 times more than normal. Considering that strandings are only a minimum estimate of actual mortality, these strandings represent a serious impact to the recovery and survival of the local sea turtle populations.

Information from GADNR and NOAA enforcement indicates that there is a high level of shrimp effort off Georgia, which is typical for this time of year. Georgia state waters are closed to shrimping, so the fishery is currently operating only in Federal waters, targeting high-value, large white shrimp. These sources also indicate that the behavior of the fishery is somewhat different than in previous years. There are a large number of very large, powerful shrimp vessels from Gulf states (estimated at 25–30 boats) that are participating in the fishery. These boats are generally capable of fishing more, larger trawls at higher speeds than the local boats. Although white shrimp are generally only caught during the day, these large vessels are fishing 24–hours-a-day and using long tow times (up to 12 hours in some cases) to maximize effort given the distance from their local ports. Local fishermen fish mostly in the day to target white shrimp using tow times of 2 to 4 hours. The 24–hour fishing, in conjunction with long tow times, represents a significant increase in effort in this area. An aerial survey to monitor shrimping effort on May 21 found that most of the large trawlers were concentrated in the southern part of the state, in the area of highest strandings.

This spring has seen a very high abundance of leatherback turtles migrating close to the Atlantic coast in Florida, Georgia, South Carolina, and North Carolina. Under the Leatherback Contingency Plan, a 14–day requirement to use leatherback-excluding TEDs was implemented for Zone 31 (north and central Georgia) through May 3. Weather and logistical problems have prevented effective aerial surveys since then, and the requirement to use the larger-opening TEDs has lapsed. GADNR estimates that up to 70 percent of the local fishermen are using leatherback-excluding TEDs, which are also effective at releasing large green and loggerhead turtles. The large, Gulf vessels have been fishing south of Zone 31 or arrived after May 3, and NMFS believes that most are not using TEDs with large openings.

NMFS believes that the increased shrimping effort, particularly the switch to nighttime fishing and very long tow-times, in conjunction with the use of TEDs with smaller escape openings is responsible for the sharp increase in turtle mortality and strandings along the Georgia coast.

Analysis of Other Factors

NMFS has analyzed other factors that might have contributed to the turtle strandings, including environmental conditions. No possible causes other than shrimp trawling have been identified. A single vessel fishing for sharks using drift gillnets a fishing method that is known to capture and kill sea turtles has been operating in Federal waters in the Florida-Georgia border area in the past month. A NMFS observer has been aboard that vessel for every trip since April 29 and no sea turtle interactions have been observed. There is no evidence of a red tide or

other harmful plankton bloom event or any major disease factor. The condition of the stranded turtles has indicated that they were generally healthy and actively foraging prior to their deaths, which is consistent with strandings resulting from shrimp trawling. The carcasses have primarily been coming ashore in the vicinity of areas where shrimping effort has been concentrated. NMFS and state personnel will continue to investigate factors other than shrimping that may contribute to sea turtle mortality in the area, including other fisheries and environmental factors.

Restrictions on Fishing for Shrimp Trawlers

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an ITS or incidental take permit, or may be likely to jeopardize the continued existence of a species listed under the ESA. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) issues this determination that further takings of threatened and endangered sea turtles in Atlantic Ocean waters off the southeast coast of the U.S. by shrimp trawlers using TEDs with small escape openings and shrimping during nighttime hours are unauthorized because such takes may be likely to jeopardize the continued existence of the sea turtle populations. The AA, thus, imposes this additional restriction to shrimp trawling activities to conserve threatened and endangered sea turtles. The AA has determined that conservation measures are necessary in an area larger than the current hot-spot of strandings to prevent fishing with practices that are harmful to sea turtles from simply relocating to other areas in the South Atlantic. Additionally, the use of large, leatherback size TED openings will allow for easier escape for all turtle species, decreasing stress and mortality to the turtles. Specifically, the AA requires shrimp trawlers, who are required to use TEDs, fishing in offshore Atlantic waters west of 77 57.5' W. longitude (approximately Cape Fear, NC) and north of 30 N. latitude (just north of St. Augustine, FL) to use TEDs with escape openings modified to exclude leatherback turtles (meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(1) or (2) or § 223.207(c)(1)(iv)(B)) and prohibits shrimp trawling in the same area between 1 hour after sunset and 1 hour before sunrise. This restriction is effective from May 24, 2002 through 11:59 p.m. (local time) June 24, 2002.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727)570–5312 for updated information on shrimping restrictions.

Additional Conservation Measures

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

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures.

Classification

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

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for threatened and endangered sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be impracticable to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Notice and opportunity to comment was provided on the proposed rule (57 FR 18446, April 30, 1992) on the final rule establishing the procedures for taking this action. Furthermore, the AA finds good cause under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Accordingly, the AA is making the rule effective May 24, 2002 through June 24, 2002.. As stated above, this restriction has been announced on the NOAA weather channel, in newspapers, and other media.

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

As required by 50 CFR 223.207(d)(4)(iv), NMFS has consulted with the marine fisheries officials in Florida, Georgia, South Carolina, and North Carolina on this emergency action. The required nighttime closure will complement existing nighttime closures of state waters in Georgia, South Carolina, and North Carolina.

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

Dated: May 24, 2002.

John Oliver

Acting Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 02–13564 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005244–2011–02; I.D. 052102A]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for Loligo Squid

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

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for *Loligo* squid in the exclusive economic zone (EEZ) will be closed effective May 28, 2002. Vessels issued a Federal permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* squid per trip for the remainder of the quarter. This action is necessary to prevent the fishery from exceeding its Quarter II quota and allow for rebuilding of this overfished stock.

DATES: Effective 0001 hours, May 30, 2002, through 0001 hours, July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978–281–9273, fax 978–281–9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH),

domestic annual processing, joint venture processing and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The 2002 specification of DAH for *Loligo* squid was set at 16,898 mt (67 FR 3623, January 25, 2002). This amount is allocated by quarter, as shown below.

TABLE. 1 *Loligo* QUARTERLY ALLOCATIONS

Quarter	Percent	Metric Tons
I (Jan—Mar)	33.23	5,615
II (Apr—Jun)	17.61	2,976
III (Jul—Sep)	17.30	2,923
IV (Oct—Dec)	31.86	5,384
Total	100.00	16,898

Section 648.22 requires NMFS to close the directed *Loligo* squid fishery in the EEZ when 80 percent of the quarterly allocation is harvested in Quarters I, II and III, and when 95 percent of the total annual DAH has been harvested. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; and publish notification of the closure in the **Federal Register**. The Administrator, Northeast Region, NMFS, based on dealer reports and other available information, has determined that 80 percent of the DAH for *Loligo* squid in Quarter II, will be harvested. Therefore, effective 0001 hours, May 30, 2002, the directed fishery for Loligo squid is closed and vessels issued Federal permits for *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo*. Such vessels may not land more than 2,500 lb (1.13 mt) of *Loligo* during a calendar day. The directed fishery will reopen effective 0001 hours, July 1, 2002, when the Quarter III quota becomes available.

Classification

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

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

Dated: May 23, 2002.

Virginia M. Fay,

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

[FR Doc. 02–13531 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 052402A]

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 24, 2002, until 1200 hrs, A.l.t., June 30, 2002.

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

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

The Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002) for the second season, the period April 1, 2002, through June 30, 2002, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: all rockfish of the genera Sebastes and Sebastolobus, deep water flatfish, rex sole, arrowtooth flounder, and sablefish.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: May 24, 2002.

John H. Dunnigan,

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

[FR Doc. 02–13559 Filed 5–24–02; 3:04 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 104
Thursday, May 30, 2002

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2100–00]

RIN 1115–AF97

Academic Honorarium for B Nonimmigrant Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Naturalization Service (Service) is proposing to amend its regulation relating to the acceptance of academic honoraria by nonimmigrant aliens admitted to the United States as B visitors. This is necessary to implement changes to section 212 of the Immigration and Nationality Act (Act) made by the American Competitiveness and Workforce Improvement Act of 1998. The amendment outlines the proposed procedures necessary for a nonimmigrant alien visiting the United States in valid B status to accept honoraria in connection with usual academic activities.

DATES: Written comments must be submitted on or before July 29, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC, 20536. To ensure proper handling, please reference INS No. 2100–00 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov*. When submitting comments electronically, please include INS No. 2100–00 in the subject heading. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

Background

What Is a B Nonimmigrant Alien?

A B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B–1) or a temporary visit for pleasure (B–2). Section 101(a)(15)(B) of the Act defines the visitor classification as:

> An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

Based on the statutory language, the Service has long held a B–1 nonimmigrant to be one seeking admission for legitimate activities of a commercial or professional nature, and a B–2 nonimmigrant to be one seeking admission for activities relating to pleasure.

Legislative Authority

How Does the American Competitiveness and Workforce Improvement Act (ACWIA) Affect the B Nonimmigrant Classification?

On October 21, 1998, President Clinton approved enactment of the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), Public Law 105–277, Div. C, Title IV, 112 Stat. 2681–641. Section 431 of the ACWIA amended the Act at section 212 by adding a new subsection 212(q):

> (q) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for usual academic activity or activities (lasting not longer than 9 days at any single institution) as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than five institutions or organizations in the previous 6-month period.

Section 212(p)(1) of the Act, as amended by ACWIA, defines the relevant institutions and organizations as:

> (A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or
>
> (B) a nonprofit research organization or a Government research organization, * * *

Note that the Service and the Department of Labor have previously defined the organizations described in section 212(p)(1) of the Act. See 65 FR 10678 (2/29/00) and 65 FR 80209 (12/20/00), respectively. For consistency, the Service plans to adopt these previously published definitions for this proposed rulemaking.

On November 30, 1999, the Service provided policy guidance to its field offices that noted the amendatory language in the ACWIA. In addition, the guidance noted that no new documentary requirements were to be imposed upon aliens applying for admission and stating the intent to accept an honorarium from an academic organization until the Service published implementing regulations.

Why Is the Service Proposing This Regulatory Change?

This regulation will aid the Service in administering section 212(q) of the Act and will provide guidance to the public. Since the new section 212(q) of the Act alters how the Service has historically viewed the B nonimmigrant classification, a proposed rule is first being published. This will offer the public a chance to comment on the Service proposals. *See Matter of Hira*, 11 I. & N. Dec. 824 (BIA 1965, 1966; A.G. 1966) and *Matter of Neill*, 15 I. & N. Dec. 331 (BIA 1975) for more information on how Board of Immigration Appeals decisions have affected the Service's interpretations of the B nonimmigrant classification.

Amendment of Existing Regulation

Are both B–1 Visitors for Business and B–2 Visitors for Pleasure Covered by This Proposed Regulation?

Section 212(q) of the Act applies to "[a]ny alien admitted under section 101(a)(15)(B)" of the Act. Thus, both nonimmigrant visitors for business (B–1 nonimmigrants) and nonimmigrant visitors for pleasure (B–2, nonimmigrants) may accept honoraria as provided in section 212(q) of the Act.

(Note that aliens exempt from the nonimmigrant visa requirements pursuant to 8 CFR 212.1 or who possess a valid border crossing card are also eligible to engage in honorarium-related events.) This proposed rule, however, makes an important distinction. Participation in academic conferences and other academic activities is more properly a B–1, rather than a B–2, activity. Therefore, if an alien is coming to the United States to engage in activities for which he or she may accept honoraria under section 212(q) of the Act, the alien must seek admission to the United States as a B–1, rather than as a B–2 nonimmigrant. For those eligible to seek admission under the Visa Waiver Program (VWP), the corresponding WB classification (Visa Waiver/Business) is the proper one.

The B–1 and B–2 classifications are separate nonimmigrant classifications with distinct purposes. A B–1 nonimmigrant is one who is seeking admission for legitimate activities of a commercial or professional nature, such as business meetings or to engage in litigation. A B–2 nonimmigrant is one who is seeking admission for activities relating to pleasure, namely touring, vacations, or family visits. Therefore, the Service believes that the award of an honorarium for services performed on behalf of an organization is not consistent with the interpretation of a visitor for pleasure.

The proposed rule does make it clear that an alien who has already been admitted as a B–2 nonimmigrant (or as a WT (Visa Waiver/Tourist) nonimmigrant under the VWP) does not violate the terms of admission by accepting honoraria in accordance with section 212(q) of the Act. But if the events for which the honoraria are offered are arranged before the alien travels to the United States, the alien must seek admission as a B–1 or WB nonimmigrant.

The Service also notes that nothing in the amendatory language relieves an alien from first meeting all the statutory requirements placed upon those applying for admission to the United States as B visitors. Namely, the alien must maintain an unabandoned foreign domicile and ties to his or her country of citizenship or residence. Only after the alien has satisfied the requirements of section 101(a)(15)(B) of the Act and is deemed admissible may the alien participate in activities where an honorarium may be awarded.

How Does the Service Propose to Define Honorarium?

The Service is proposing the addition of a new 8 CFR 214.8. At § 214.8(a) the Service provides definitions of various terms used throughout 8 CFR 214.8. Honorarium is defined as a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity for which no fee is legally required and that an honorarium may be of any dollar amount with no minimum or maximum dollar amount required. This definition makes clear that honorarium is altogether different than a salary that an individual receives on a continuing basis.

How is the Term "Usual Academic Activity" Defined?

Section 212(q) of the Act directs the Attorney General to consult with the Secretary of Education in order to formulate a definition of "usual academic activity." As directed by section 212(q) of the Act, the Service has consulted with the Education Department in developing a workable definition of the term, "usual academic activity."

At 8 CFR 214.8(a), the Service proposes a broad definition of "usual academic activity" that includes lecturing, teaching, and sharing knowledge. In addition, the Service includes activities such as meetings of boards or committees that benefit the institution within the text of the definition.

While the Service also includes performances, master classes, and readings within the definition of "usual academic activity," the proposed rule does place limitations on the commercial nature of such events. The Service proposes that such events must be open to students and/or the general public free of charge, with no sale of general admission tickets. An alien performing artist wishing to perform before a paying audience and who would otherwise be charging a set fee for the performance must avail him or herself of another type of nonimmigrant visa specifically intended for use by such an artist. For example, the O and P nonimmigrant categories were, in part, created to accommodate performing artists. The Service notes that section 212(q) of the Act does not create a new method for performing artists to circumvent the prescribed nonimmigrant visa petition process.

Is the Service Proposing Limitations on Honorarium Activity and Frequency?

Yes, section 212(q) of the Act provides that during a 6-month period, an alien may accept an honorarium and reimbursement of the associated expenses from no more than five organizations, and that the event may not last more than 9 days at any single institution. While Congress did not offer an explanation about why these limitations are included in the amendatory language, the Service interprets these stated limitations as evidence of congressional concern that organizations may be tempted to circumvent the nonimmigrant petition process in order to augment staff with alien professors or teachers. Without any limitations, any organization included within the statutory language could in effect hire an alien professor to teach a full course-load, but state that the individual is only "visiting" and is being awarded an honorarium for his or her contributions to the benefit of the institution.

The Service therefore proposes at 8 CFR 214.8(c) reasonable limitations on honorarium activity and frequency that are consistent with section 212(q) of the Act. The Service notes that while limits are proposed on honorarium-related activity and frequency, nothing within the proposed rule prevents an alien from obtaining employment with an academic organization through the normal petition process, or through programs such as the Short Term Scholar program (a J-visa program administered by the Department of State at 22 CFR 62.21).

The Service also attempts to provide an interpretation of the term "single institution" that is specified in section 212(q) of the Act. The Service proposes that the term "single institution" may apply to an organization that has more than one branch or campus. For example, if an alien is making the same presentation at three different campuses of a State university during a 9-day period and is being reimbursed with one honorarium payment, the Service will regard this as a single visit. However, if the alien's intention is to address three different topics at a multi-campus organization over the 9-day period and the different campuses are paying the alien separate honorarium payments for the visits, the Service will consider this to be three separate visits. These visits will be charged against the overall five visits allowed during the 6-month period.

Will the Service Require Documentation From Arriving Aliens Stating the Intent to Participate in Honorarium-related Activities?

Yes, the Service proposes, at 8 CFR 214.8(d), that aliens presenting themselves for admission to the United States as B–1 or WB visitor for business, and who state the intent to participate in honorarium-related activities, be in possession of the letter of invitation that has been issued by the institution

sponsoring the activity. It is reasonable to expect that any organization sponsoring an honorarium-related event to have issued a letter of invitation to the alien. Invitation letters should clearly specify the honorarium-related event or activity as well as the date and location of the activity. In addition, the letter may assist the inspecting Service officer in verifying that the activity the alien plans to participate in qualifies pursuant to section 212(q) of the Act and the regulations at 8 CFR 214.8. The Service sees no particular hardship by proposing this reasonable documentary requirement.

Does the Service Consider Organizations Sponsoring Honorarium-Related Events to be Employers Subject to the Provisions of Section 274A of the Act?

No, the Service intends that organizations sponsoring honorarium-related events will not be considered to be employers subject to the provisions of section 274A of the Act as long as their actions are consistent with this rule.

Section 274A of the Act and implementing regulations at 8 CFR part 274a relate to the control of the employment of aliens in the United States. These provisions require persons or entities who hire individuals for employment in the United States to verify such individuals' employment eligibility and identity on the Employment Eligibility Verification form (Form I–9). These provisions also prohibit persons or entities from: hiring an alien knowing that he or she is unauthorized to work in the United States; continuing to employ an alien knowing that he or she is or has become unauthorized to work; or using a contract, subcontract, or exchange to obtain the labor or an alien in the United States knowing that he or she is unauthorized with respect to performing such labor. In essence, therefore, the prohibitions and requirements of section 274A of the Act and 8 CFR part 274a only apply in the employment and contract services contexts.

In the context of honorarium-related events, however, the relationship between the organization sponsoring the event and the individual providing the honorarium-related academic activity is neither one of employer/employee nor based upon contract services. The definitions of "employee," "employer," and "employment" in 8 CFR 274a.1(f), (g) and (h) respectively make clear that, for purposes of section 274A of the Act, "employment" has the common meaning of the provision of labor or service for a wage, salary or other remuneration, to which the employee has a legal entitlement, once the employee performs the labor or service. This proposed rule defines an honorarium, by contrast, as "a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity, for which no fee is legally required." Thus, an activity for which a person may accept an honorarium under this rule is not "employment" nor is it contractual, given its gratuitous nature.

However, the fact that an activity for which an entity may offer an honorarium is not "employment" or contract services does not mean an entity can abuse the honorarium process to circumvent the prescribed nonimmigrant petition process that all United States employers must follow, in those cases where it will, in fact, be employing the services of a qualified alien worker. Organizations, in particular colleges, universities, and other institutions of higher education, may not use the honorarium provisions to hire or contract with an alien worker in order to provide salaried or otherwise compensated services. If the individual is to be the entity's employee, both the entity and the alien must comply with section 274A and all other provisions of the Act—such as visa petition, labor certificate, and visa requirements—governing the alien's ability to accept employment in the United States. For example, organizations that connect events together where the 9-day periods run back-to-back or are otherwise structured in such a way as to allow the instructor to continue the program during a regular semester or other established instructional period must be prepared to substantiate why the Service should not consider this arrangement as employment.

If the alien is to provide contract services, he or she will be violating his or her status by providing such services unless the alien is employment-authorized with respect to this activity. While the entity is not required by section 274A of the Act to verify the employment eligibility on Form I–9 of individuals providing contract services, the entity may be violating the prohibition against knowingly hiring an unauthorized alien if the individual is providing the contract services without being employment-authorized, and the entity is aware of this fact.

What Penalties Might an Alien Incur Should he or she be Found to be in Violation of Status?

The Service has every reason to believe that the vast majority of aliens that intend to take advantage of these honorarium-related provisions will maintain and abide by the B–1 or WB status under which the alien was admitted. However, the Service would be remiss not to address the possible consequences an alien may face should he or she violate the provision of the admitted B–1 or WB status. The Service therefore notes at 8 CFR 214.8(e) that an alien who collects honorarium in excess of the limitations stipulated by the Act will be considered to be in violation of his or her B or WB nonimmigrant status and amenable to removal under the provisions of section 237(a)(1)(C)(i) of the Act.

In addition, an alien who is applying for admission to the United States in order to participate in honorarium-related activities, and who is found to have exceeded the limitations on such activities stipulated by the Act, and who knowingly misrepresents himself or herself to the admitting Service inspector about material facts regarding the alien's honorarium-related activities, may be found to be inadmissible pursuant to the misrepresentation provisions found in section 212(a)(6)(C)(i) of the Act.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies to nonimmigrant aliens visiting the United States in valid B status to accept honoraria in connection with usual academic activities. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in

costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Under Executive Order 12866, section 6(a)(3)(B)–(D), this proposed rule has been submitted to and reviewed by the Office of Management and Budget.

Executive Order 13132

This 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This proposed rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment.

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note and 1931 note, respectively; 8 CFR part 2.

2. Section 214.8 is added to read as follows:

§ 214.8 Academic honorarium for B visitors.

(a) This section establishes the rules that govern an alien's receipt of honoraria in accordance with section 212(q) of the Act, while the alien is present in the United States after having been admitted as a nonimmigrant visitor for business or pleasure (B nonimmigrant). As used in this section the term:

Associated incidental expenses means reimbursements or payments for travel costs, lodging, meals, uniforms, or supplies.

Government research organization means an organizational unit of the Federal Government whose primary mission is the performance or promotion of basic research and/or applied research. See § 214.2(h)(19)(iii)(C) for a complete definition of this term.

Honorarium means a gratuitous payment of money or any other thing of value to a person for the person's participation in a usual academic activity for which no fee is legally required. The value of an honorarium may be of any dollar amount with no minimum or maximum dollar amount required, as distinguished from set compensation (*i.e.*, salary) for services that are rendered on a continuing basis.

Institution of higher education means an institution meeting the requirements of section 101(a) of the Higher Education Act of 1965.

Nonprofit research organization means an organization defined as tax exempt under the Internal Revenue Code of 1986, section 501(c)(3), (c)(4) or (c)(6), 26 U.S.C. 551(c)(3), (c)(4) or (c)(6) and has been approved as a tax exempt organization for research or educational purposes by the Internal Revenue Service. See § 214.2(h)(19)(iii)(C) and (h)(19)(iv) for a complete definition of this term.

Pre-arranged academic activity means any academic activity for which an alien will accept an honorarium, if the institution invited the alien's participation before the alien's admission to the United States.

Usual academic activity (or activities) means those activities for the benefit of the institution that include, but are not limited to, lecturing, teaching, consulting, conducting research, attending meetings, symposia or seminars, or otherwise sharing knowledge, experience, or skills in master classes, readings, and performances (when the audience is composed of non-paying students and/or open to the general public and general admission tickets to the public have not been sold), and meetings of boards, committees, or merit review panels.

Visitor for business means a person admitted to the United States as a B–1 nonimmigrant or a Visa Waiver Program visitor for business pursuant to 8 CFR part 217.

Visitor for pleasure means a person admitted to the United States as a B–2 nonimmigrant or a Visa Waiver Program visitor for pleasure pursuant to 8 CFR part 217.

(b) *B nonimmigrants eligible to accept honorarium.* Both nonimmigrant visitors for business and nonimmigrant visitors for pleasure may accept honoraria in accordance with section 212(q) of the Act. Aliens who are exempt from the nonimmigrant visa requirements of 8 CFR 212.1 or who possess a valid border crossing card are also eligible to engage in honorarium-related events. If, however, the alien is coming to the United States to participate in pre-arranged academic activities for which the alien will accept honoraria the alien must seek admission as a nonimmigrant visitor for business. An alien may not be admitted as a nonimmigrant visitor for pleasure if the alien's plans include participating in pre-arranged academic activities for which the alien will accept honoraria.

(c) *Limitations on honorarium activity and frequency.* The acceptance of honoraria under this paragraph is subject to the following limitations.

(1) During a 6-month period, an alien may accept an honorarium and reimbursement of the associated expenses from no more than five organizations that are defined in paragraph (a) of this section. If questioned by the admitting Service Inspector or by any Service officer after admission, the alien shall provide a complete accounting of his or her honorarium-related activities within the applicable 6-month period.

(2) The academic activity or activities that the alien is providing for the institution is limited to no more than 9 days per activity at any single institution (a total of 45 possible days during the 6-month period). The term "single institution" also applies to an organization that has branches or campuses in more than one location. For purposes of applying the 9-day limit, if the alien is providing the identical service at more than one location of the institution during the 9-

day period and is being reimbursed with one honorarium payment, this shall be considered one activity. However, if the alien is providing different activities at different branches of an organization and the different campuses are paying the alien separate honorarium payments for the visits, each visit to each branch or campus shall be considered a separate visit and be calculated against the maximum of five allowed activities within the 6-month period.

(3) An institution may not use the honorarium provisions of section 212(q) of the Act as a vehicle to circumvent the otherwise prescribed nonimmigrant petition process. Institutions desiring to employ nonimmigrant aliens must comply with section 274A of the Act and all other applicable provisions of the Act and the Service regulations at 8 CFR part 274a that govern an alien's ability to legally accept employment in the United States.

(d) *Documentation.* Any alien applying for admission to the United States as a B–1 visitor for business or as a WB visitor, stating the intent to participate in an academic activity for which an honorarium payment will be awarded, will be required to be in possession of the letter of invitation that the institution sponsoring the activity has issued to the alien. At a minimum, an invitation letter should clearly specify the honorarium-related event or activity, as well as the date(s) and location of the event. The letter of invitation must be produced for inspection if requested by an inspecting Service officer at the United States port-of-entry where the alien is applying for admission.

(e) *Applicability of employment requirements.* A nonimmigrant visitor for business or pleasure who accepts honoraria as provided in this section will not be considered as engaging in employment or providing contract services since doing so impedes the ability of the Service to properly administer section 212(q) of the Act.

(f) *Violation(s) of status.* (1) A nonimmigrant visitor for business or pleasure who collects honoraria in excess of the limitations noted in paragraph (c) of this section is in violation of his or her nonimmigrant status and amenable to removal under section 237(a)(1)(C)(i) of the Act.

(2) It is not a violation of status for an alien who has been admitted as a nonimmigrant visitor for pleasure to accept honoraria under section 212(q) of the Act for the alien's participation in academic activities, if the institution invited the alien's participation after the alien's admission. It is, however, a misrepresentation of a material fact for an alien who is coming to the United States to participate in pre-arranged academic activities for which the alien will accept honoraria to seek and obtain admission as a nonimmigrant visitor for pleasure, rather than as a nonimmigrant visitor for business.

(3) It is not a violation of status for a B–1 alien to participate in more than one academic activity at more than one organization during a single admission. However, the academic activities must comport with the limitations noted in section 212(q) of the Act.

Dated: May 21, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–13433 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 93–076–17]

Animal Welfare; Marine Mammals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: We are considering amendments to the Animal Welfare regulations concerning the marine mammal standards for which consensus language was not developed during negotiated rulemaking we conducted in 1995 and 1996, as well as the standards for interactive programs such as swim-with-the-dolphin programs. We are soliciting comments regarding appropriate changes or additions to the present standards.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 29, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 93–076–17, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 93–076–17. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 93–076–17" on the subject line.

You may read any comments that we receive on this docket 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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1228; (301) 734–7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the Act to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3.

Under the Act, APHIS established regulations in 1979 for the humane handling, care, treatment, and transportation of marine mammals used for research or exhibition purposes. These regulations are found in 9 CFR part 3, subpart E, "Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals" (§§ 3.100 through 3.118). Some sections of these standards have not been substantively amended since 1984.

Marine Mammal Regulations

In 1995, we established a Marine Mammal Negotiated Rulemaking Advisory Committee (the Committee) to advise the Department on revisions to the marine mammal regulations. The Committee met for three sessions between 1995 and 1996. Under the rules governing the negotiated rulemaking process, and in accordance with the organization protocols established by

the Committee, APHIS agreed to publish as a proposed rule any consensus language developed during the meetings unless substantive changes were made as a result of authority exercised by another Federal Government entity. The Committee developed consensus language for changes to 13 of the 18 sections that comprise the regulations and for 1 paragraph in a 14th section.

On February 23, 1999, we published a proposed rule in the **Federal Register** (64 FR 8735–8755, Docket No. 93–076–11) that contained the language developed by the Committee for those sections of the regulations for which consensus had been reached. The rule was made final, with some changes, on January 3, 2001 (66 FR 239–257, Docket No. 93–076–15) and became effective on April 3, 2001 (66 FR 8744, Docket No. 93–076–16).

Remaining Issues

Although consensus language was developed by the Committee for 13 of the 18 sections of the regulations in their entirety, and for 1 paragraph of another section, the Committee conducted extensive discussions on all sections of the regulations. No consensus language was developed for four sections of the standards—§ 3.100 on variances and implementation dates; § 3.102 on indoor facilities; § 3.103 on outdoor facilities; and § 3.106 on water quality. Consensus language was developed for general space requirements in § 3.104, but not on the specific space requirements for particular marine mammals. The Committee agreed that APHIS would develop and promulgate a proposed rule to address those parts of the regulations for which consensus language was not developed.

Interactive Programs

On January 23, 1995 (60 FR 4383–4389, Docket No. 93–076–2), we published in the **Federal Register** a proposed rule to establish standards for swim-with-the-dolphin (SWTD) programs in a new § 3.111. After reviewing the comments, we published a final rule in the **Federal Register** on September 4, 1998 (63 FR 47128–47151, Docket No. 93–076–10), that made final some of the proposed provisions, along with changes we made based on the comments received. The final rule became effective October 5, 1998.

Following publication of the final rule, a number of parties affected by the rule contacted us and asserted that they did not fully understand issues raised in the proposed and final rules regarding wading programs, encounter programs, and other interactive programs. Specifically, these regulated parties stated that it had not been clear to them that we intended the provisions of the rule to apply to shallow-water interactive programs. Shallow-water interactive programs are programs in which members of the public enter the primary enclosure of a cetacean to interact with the animal, and in which the participants remain primarily stationary and nonbuoyant. The regulated parties stated that, because of this misunderstanding, they had not been able to participate fully in the rulemaking process.

In response to these concerns, on October 14, 1998 (63 FR 55012, Docket No. 93–076–12), we announced that, as of the effective date of the September 4, 1998, final rule, and until further notice, we would not apply the standards relating to space for the interactive area and human participant/attendant ratio to shallow-water interactive programs. Subsequently, on April 2, 1999 (64 FR 15918–15920, Docket No. 93–076–13), we suspended enforcement of all of the regulations and standards concerning SWTD programs.

Request for Comments

Since advances continue to be made, new information developed, and new concepts implemented with regard to the handling, care, treatment, and transportation of marine mammals in captivity, we are now reviewing the standards to determine what amendments, if any, are necessary. Specifically, we are requesting comments regarding the standards for which the Committee did not develop consensus language (§§ 3.100, 3.102, and 3.103; the specific space requirements for particular marine mammals in § 3.104; and § 3.106) and for the standards for SWTD programs in § 3.111.

In particular, we invite responses to the following questions:

1. Should maximum temperature ranges for air and water be established for each species? If so, what should these temperature ranges be? Please submit any scientific data available to support maximum and/or minimum temperature ranges for each species.

2. Should noise thresholds be established for each species? If so, please submit specific scientific data to support any proposed noise thresholds as well as specific methodologies for measuring sound levels.

3. What components should we consider when determining space requirements for each species (e.g., surface area, volume, length, width, depth)? Has a method or system been developed by any marine mammal facility or other entity to address space requirements? If so, please describe it.

4. Should we revise the representative average adult lengths used in the tables? If so, why? Please submit any scientific data that supports revising the representative average adult lengths used in the tables.

5. Should we establish minimum depths for each species? If so, what should these depths be? Please submit any supporting scientific data for each species.

6. Which is more important, minimum width or longest straight-line swimming distance? Should we require any specific straight-line swimming distance?

7. Interactive programs are programs in which members of the public enter the primary enclosure of a marine mammal in order to interact with the animal. There are a wide range of interactive programs currently available to the public (e.g., wading, swimming, snorkeling, or scuba diving with marine mammals; sitting on a dock, ledge, or similar arrangement while the marine mammal approaches; "trainer for the day" and/or immersion experiences; and therapeutic sessions). Are there any interactive activities not listed here? If so, please provide a detailed description of the activity.

8. How should the interactive activities described above be regulated? What, if any, paragraphs in § 3.111 should be amended? How? Are there any other specific standards needed for interactive programs?

9. Do you have any other specific concerns or recommendations for the sections mentioned above?

We welcome all comments on the issues outlined above and encourage the submission of ideas on the specific standards for the humane handling, care, treatment, and transportation of marine mammals in captivity found in §§ 3.100, 3.102, 3.103, 3.104, 3.106, and 3.111. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments and recommendations we receive regarding changes to the current regulations and will initiate rulemaking for any changes deemed appropriate.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 23rd day of May 2002 .

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 02–13528 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

Rulemaking Communications Improvements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is seeking comments and recommendations from all interested persons regarding options for improving NRC communications with the public on agency rulemaking activities.

DATES: Submit comments by July 1, 2002. Comments received after this date will be considered only if it is practical to do so.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O–16C1, or deliver written comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher at (301) 415–5905 or by e-mail to *cag@nrc.gov*. Copies of any comments received and certain documents related to this notice may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an electronic Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Public comments on this notice may be accessed In ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: William Huffman, Policy and Rulemaking Program, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone: (301) 415–1141; E-mail: *wch@nrc.gov* or Merri Horn, Rulemaking and Guidance Branch, Office of Nuclear Material Safety and Safeguards; Telephone: (301) 415–8126; E-mail: *mlh1@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC currently communicates with the public about rulemaking activities in a number of ways. The agency notices all rulemaking actions in the **Federal Register**, and invites the public to comment on noticed actions *via* mail, hand delivery, or by uploading a file to the agency's RuleForum Web site (*http://ruleforum.llnl.gov*). The RuleForum site contains extensive information on both specific rulemakings under development and general rulemaking activities, and allows visitors to read comments submitted to the NRC by other members of the public. Documents related to rulemaking activities, including public comments, can also be accessed online through the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*.

In addition, the NRC's Public Document Room (PDR), located at the agency's headquarters in Rockville, MD, is open to the public on all Federal work days. Occasionally, the agency conducts meetings or workshops related to specific rulemakings, events which are publicized in the **Federal Register** and on the NRC's home page (*http://www.nrc.gov*).

As part of an ongoing effort to improve stakeholder satisfaction with the way the NRC communicates with the public, the agency is considering enhancements to its current methods of informing the public about rulemaking activities and to encourage public participation in the rulemaking process. To support this endeavor, the NRC is requesting comment on its rulemaking communications process. Comment is requested on, but need not be limited to, the topics below:

(1) In addition to the use of the **Federal Register** and the NRC rulemaking Web site, what other forums would be effective in informing the public about rulemaking activities?—e.g., e-Mail, mailing lists, announcements on related Web sites, public meetings, or other suggestions.

(2) The general process used by the public to provide comments on rulemakings published in the **Federal Register** is to either mail the comments to the Secretary, U.S. Nuclear Regulatory Commission or use the NRC's interactive rulemaking Web site. In addition, public meetings are occasionally used for obtaining public comments for some rulemakings. Are there any other methods that might be used to facilitate public comments on rulemaking activities?

(3) At what stage(s) of the rulemaking process is interaction with the public most effective and beneficial?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

(4) What method of public interaction on rulemaking activities is preferred?—e.g., **Federal Register** notice; posting draft rule language on the Web; meetings; or other suggestions?

(5) How useful are public meetings for communicating NRC rulemaking activities to all stakeholders?

A. Are there occasions where public meetings are important in conducting rulemaking activities?

B. For those that consider public meetings on rulemaking activities an important part of the process, at what stage of the rulemaking process would meetings be most beneficial and effective?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

(6) Are published responses to public comments on proposed rules generally comprehensive, clearly written, and well-argued?

(7) How useful is the initiative by the NRC to place draft rulemaking language on the NRC Web site with or without the associated statement of considerations?

(8) How can the NRC obtain better information and comments on the cost or benefit of a rulemaking under development—i.e., information used to create a regulatory analysis?

(9) Is the NRC's typical 75-day comment period for proposed rules sufficient?

Dated at Rockville, Maryland, this 23rd day of May, 2002.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Program Director, Policy and Rulemaking Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

Patricia K. Holahan,

Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–13468 Filed 5–29–02; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–85–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect evidence of wear damage in the area at the interface between the vertical stabilizer and fuselage skin, and corrective actions, if necessary. This proposal also would provide for an optional terminating action for the repetitive inspections. This action is necessary to detect and correct wear damage of the fuselage skin, which could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–85–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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2002–NM–85–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 the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1119, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *judy.golder@faa.gov*. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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 proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002–NM–85–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of wear damage at the interface area of the vertical stabilizer and fuselage skin in section 46 and section 48 on certain Boeing Model 747 series airplanes. The damage has been attributed to movement of the adjacent vertical stabilizer blade seal and subsequent wear through the enamel coating on the fuselage skin. Such wear damage of the fuselage skin in the area at the interface between the vertical stabilizer and fuselage skin, if left undetected, could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin (ASB) 747–53A2478, dated February 7, 2002, which describes procedures for repetitive detailed inspections to detect wear damage of the fuselage skin at the interface areas of the vertical stabilizer seal and fuselage skin, and corrective actions, if necessary. The ASB describes the corrective actions that include removal of the exterior surface finish and measurement of the wear depth if wear exists on the fuselage skin. If wear damage is detected, the ASB refers operators to the Structural Repair Manual (SRM). If no wear damage is found, the ASB describes procedures for refinishing the fuselage skin with BMS 10–86 Teflon-filled coating, which would eliminate the need for repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 1,104 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 253 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,180, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 proposed optional terminating action per paragraph (b) of this AD, it would take approximately 6 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 optional termination action would be $360 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2002–NM–85–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002; 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) 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 wear damage of the fuselage skin in the area at the interface between the vertical stabilizer and fuselage skin, which could result in thinning and cracking of the fuselage skin, and consequent in-flight depressurization of the airplane; accomplish the following:

Inspections for Damage

(a) Prior to the accumulation of 15,000 total flight cycles or within 1,200 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection to detect evidence of wear damage of the fuselage skin at the interface area of the vertical stabilizer seal and fuselage skin, per Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002.

(1) If no wear damage of the fuselage skin is detected or any existing blendout is within the structural repair manual (SRM) allowable damage limits: Repeat the detailed inspection at intervals not to exceed 6,000 flight cycles.

(2) If any wear damage of the fuselage skin is detected or any existing blendout exceeds the allowable damage limits specified in the SRM: Before further flight, repair the vertical stabilizer seal interface and refinish the skin with BMS 10–86 Teflon filled coating, per the alert service bulletin. Accomplishment of the repair and refinishing is terminating action for the repetitive inspections required by paragraph (a) of this AD.

Note 2: For the purposes of this AD, a detailed 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."

Optional Terminating Action

(b) Refinishing the fuselage skin with BMS 10–86 Teflon-filled coating, per Boeing Alert Service Bulletin 747–53A2478, dated February 7, 2002, terminates the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle 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, Seattle ACO.

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

Issued in Renton, Washington, on May 22, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–13424 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–105316–98; REG–161424–01]

RIN 1545–AW67; 1545–BA43

Information Reporting for Qualified Tuition and Related Expenses; Magnetic Media Filing Requirements for Information Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to proposed regulations.

SUMMARY: This document contains a correction to proposed regulations (REG–105316–98; REG–161424–01) which were published in the **Federal Register** on Monday, April 29, 2002 (67 FR 20923). The proposed regulations relate to the information reporting requirements under section 6050S for payments of interest on qualified education loans, including the filing of information returns on magnetic media.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are subject to this correction are under section 6050 of the Internal Revenue Code.

Need for Correction

As published, these proposed regulations (REG–105316–98; REG–161424–01) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (REG–105316–98; REG–161424–01) which were the subject of FR Doc. 02–9932, is corrected as follows:

§ 1.6050S–1 [Corrected]

1. On page 20931, column 3, § 1.6050S–1(b)(2)(vii), *Example 4.* (iii), line 14, the language "2004. Under paragraph (b)(2)(v) of this" is corrected to read "2003. Under paragraph (b)(2)(v) of this".

Guy R. Traynor,

Federal Register Certifying Officer, Regulations Unit, Associate Chief Counsel, (Income Tax & Accounting).

[FR Doc. 02–13171 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA29

Financial Crimes Enforcement Network; Due Diligence Anti-Money Laundering Programs for Certain Foreign Accounts

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Treasury and FinCEN are issuing a proposed regulation to implement section 312 of the USA PATRIOT Act of 2001, which requires U.S. financial institutions to establish due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through correspondent accounts and private banking accounts that U.S. financial institutions establish or maintain for non-U.S. persons.

DATES: Written comments may be submitted to FinCEN on or before July 1, 2002.

ADDRESSES: Submit comments (preferably an original and four copies) to FinCEN, P.O. Box 39, Vienna, VA 22183, Attn: Section 312 Regulations. Comments may also be submitted by electronic mail to *regcomments@fincen.treas.gov* with the caption in the body of the text, "Attention: Section 312 Regulations." Comments may be inspected at FinCEN between 10 a.m. and 4 p.m. in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of the Assistant General Counsel for Enforcement (Treasury), (202) 622–1927; the Office of the Assistant General Counsel for Banking and Finance (Treasury), (202) 622–0480; or Office of the Chief Counsel (FinCEN), (703) 905–3590 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, President Bush signed into law the USA PATRIOT Act of 2001, Public Law 107–56 (the Act). Title III of the Act, captioned "International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001," includes certain amendments to the Bank Secrecy Act (BSA), 31 U.S.C. 5311 *et seq.*, intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Section 312 of the Act adds new subsection (i) to 31 U.S.C. 5318. This provision requires each U.S. financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-U.S. person to take certain anti-money laundering measures with respect to such accounts. In particular, financial institutions must establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures and controls that are reasonably designed to enable the financial institution to detect and report instances of money laundering through those accounts.

In addition to this general requirement, which applies to all correspondent and private banking accounts for non-U.S. persons, section 312 of the Act specifies additional standards for certain correspondent accounts. For a correspondent account maintained for a foreign bank operating under an offshore license or a license granted by a jurisdiction designated as being of concern for money laundering, a financial institution must take reasonable steps to identify the owners of the foreign bank, to conduct enhanced scrutiny of the correspondent account to guard against money laundering, and to ascertain whether the foreign bank provides correspondent accounts to other foreign banks and, if so, to conduct appropriate related due diligence.

Section 312 also sets forth minimum standards for the due diligence requirements for a private banking account for a non-U.S. person. Specifically, a financial institution must take reasonable steps to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, the private banking account, as necessary to guard against money laundering. The institution must also conduct enhanced scrutiny of private banking accounts requested or maintained by or on behalf of senior foreign political figures (or their family members or close associates). Enhanced scrutiny must be reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

Section 312(b)(2) provides that subsection 5318(i) takes effect on July 23, 2002, and applies with respect to accounts covered by the requirement, regardless of when they were opened.

II. The Proposed Rule

The proposed rule, which was developed by Treasury in consultation with the staffs of the Federal functional

regulators, requires covered financial institutions (which for purposes of this provision includes all U.S. financial institutions required under Treasury regulations to establish an anti-money laundering program) to implement programs to ensure that the due diligence requirements of the Act are met. The proposed regulation sets forth certain minimum requirements and otherwise adopts a risk-based approach, permitting covered financial institutions to tailor their programs to their own lines of business, financial products and services offered, size, customer base, and location. The proposed rule contemplates that covered financial institutions will pay close attention to the risks presented by different foreign financial institution and private banking customers, the jurisdictions in which they operate, and the types of transactions for which the accounts are used. A covered financial institution's program under the proposed rule should include evaluation and consideration of any risks associated with these and other relevant factors. Covered financial institutions are expected to exercise sound business judgment in complying with the proposed rule and in addressing risks presented by foreign financial institution and private banking customers.

Treasury intends covered financial institutions to incorporate the due diligence programs required under the proposed rule into their existing programs under the BSA; it is not necessary for these financial institutions to establish separate programs for correspondent and private banking account due diligence. All federally insured depository institutions and credit unions are currently subject to regulations requiring them to maintain BSA compliance programs,[1] as are casinos.[2] In addition, effective April 24, 2002, securities broker-dealers, futures commission merchants and introducing brokers were required by section 352 of the Act and by rules of their respective self-regulatory organization to develop and implement anti-money laundering programs.[3] Also, on April 23, 2002, FinCEN issued interim final regulations under section 352 requiring mutual funds, money services businesses, and operators of credit card systems to establish anti-money laundering programs.[4] These program requirements include, at a minimum, (1) internal policies, procedures and controls to ensure ongoing BSA compliance; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.

[1] *See* 12 CFR 21.21 (Office of the Comptroller of the Currency (OCC)); 12 CFR 208.63 (Board of Governors of the Federal Reserve System (Federal Reserve)); 12 CFR 326.8 (Federal Deposit Insurance Corporation (FDIC)); 12 CFR 563.177 (Office of Thrift Supervision (OTS)); 12 CFR 748.2 (National Credit Union Administration).

[2] 31 CFR 103.64

[3] *See* NASD Regulation Rule 3011 and NYSE Rule 445, approved by the Securities and Exchange Commisison (SEC) on April 22, 2002, Release No. 34–45798, 67 FR 20854 (April 26, 2002); National Futures Association Compliance Rule 2–9(c), approved by the Commodity Futures Trading Commission on April 23, 2002.

[4] 67 FR 21110 (April 29, 2002).

[5] 66 FR 67460 (Dec. 28, 2001).

III. Section-by-Section Analysis

1. Overview.

On December 28, 2001, Treasury published in the **Federal Register** a notice of proposed rulemaking to implement sections 313 and 319(b) of the Act (the Section 313/319 NPRM).[5] This proposed rule concerned provisions that: prohibit certain financial institutions from providing correspondent accounts to foreign shell banks; require such financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks are not being used to indirectly provide banking services to foreign shell banks; require certain financial institutions that provide correspondent accounts to foreign banks to maintain records of the ownership of such foreign banks and their agents in the United States designated for service of legal process for records regarding the correspondent account; and require the termination of correspondent accounts of foreign banks that fail to turn over their account records in response to a lawful request of the Secretary of the Treasury (Secretary) or the Attorney General. The Section 313/319 NPRM proposed to codify these requirements in a new Part 104 of title 31 of the Code of Federal Regulations.

The interim final rules published by Treasury on April 29, 2002, concerning anti-money laundering programs under section 352 of the Act, were codified in a new Subpart I of Part 103 of title 31 of the Code of Federal Regulations.

For clarity and convenience concerning the obligations of financial institutions with respect to the related requirements of sections 312, 313, 319(b), and 352 of the Act, Treasury intends to codify all of the regulations implementing these sections in Subpart I of Part 103. Accordingly, the "reserved" definitions in proposed section 103.175 are for terms used in the Section 313/319 NPRM that are not relevant for purposes of this proposed rule under Act section 312. In addition, "reserved" §§ 103.177, 103.185, and 103.190 correspond to the three sections proposed in the Section 313/319 NPRM.

2. Section 103.175 B Definitions.

The proposed rule defines *beneficial ownership interest* to mean any noncontingent legal authority to fund, direct, or manage an account, or noncontingent legal entitlement to all or any part of the corpus or income of the account (other than an interest of less than the lesser of $1,000,000 or five percent of either the corpus or income of the account). Thus, the holder of any current right to any assets in a private banking account whose interest exceeds the minimum threshold would need to be identified; however, a financial institution would not be obliged to identify holders of contingent rights in an account, such as inheritance or similar interests.

The proposed rule's definition of *correspondent account* is the definition in 31 U.S.C. 5318A(e) (as added by section 311 of the Act) and is statutorily applicable for purposes of 31 U.S.C. 5318(i) with respect to banks. The proposal defines the term to mean an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution. In the case of a U.S. bank, this broad definition would include most types of banking relationships between a U.S. bank and a foreign financial institution. In the case of securities broker-dealers, futures commission merchants, and introducing brokers, a correspondent account would include any account that permits the foreign financial institution to engage in securities or futures transactions, funds transfers, or other types of financial transactions. With respect to the other types of covered financial institutions, a correspondent account would include any account such financial institution maintains for a foreign financial institution that falls within the definition: an account for receiving deposits from, making payments on behalf of, or handling other transactions related to such foreign financial institution. Treasury received many comments in connection with the Section 313/319 NPRM regarding the breadth of the definition of the term correspondent account for depository institutions and securities broker-dealers, and is continuing to consider those comments. Treasury is using the same definition as in the Section 313/319 NPRM for purposes of the proposed rule, except that the term applies to such accounts maintained by any covered financial institution, and

applies to such accounts maintained for any foreign financial institution.

The proposed definition of *covered financial institution* is broader than the definition of "covered financial institution" in the Section 313/319 NPRM.[6] Unlike sections 313 and 319(b) of the Act, which impose certain restrictions and requirements on correspondent accounts for foreign banks, section 312 does not limit its application to "covered financial institutions" as defined in section 313 (primarily depository institutions and securities broker-dealers). Based upon the meaning of the term correspondent account and the requirements of section 312, Treasury is proposing to define covered financial institution to include, in addition to most of the financial institutions subject to the Section 313/319 NPRM, the other financial institutions that are subject to an anti-money laundering program requirement. This includes futures commission merchants and introducing brokers, casinos, mutual funds, money services businesses, and operators of credit card systems.

Treasury and FinCEN are engaged currently in the process of reviewing all categories of U.S. financial institutions to craft regulations requiring the development of anti-money laundering programs tailored to the risks presented by the products and services offered by these industries. Implicit in Congress' direction to Treasury to engage in this process is the recognition that all financial institutions may well pose risks that their products and services can be used unwittingly to launder money or finance terrorism. If the same functions are performed by foreign based financial institutions, similar risks are posed. When those foreign based financial institutions interface with a U.S. financial institution—any financial institution—through a correspondent account, section 312 requires appropriate due diligence to minimize the risk of money laundering or terrorist financing.

It may well be that many types of U.S. financial institutions simply do not offer and do not establish "correspondent accounts," but section 312 will capture any such account if it is subsequently established. Moreover, the statutory definition of a correspondent account is not limited to a traditional banking account. Treasury and FinCEN are specifically requesting comment concerning how the definition may or may not apply to the covered financial institutions. Treasury anticipates that, as additional U.S. financial institutions are required to establish anti-money laundering programs, they will also become subject to the requirements of this provision as well, to the extent they may maintain correspondent accounts for foreign financial institutions.

As in the case of the Section 313/319 NPRM, the definition includes foreign branches of insured depository institutions within the term covered financial institution. This means that any correspondent or private banking account established, maintained, administered, or managed at a foreign branch of an insured depository institution would be subject to the regulation. This issue was also the subject of substantial comment in the previous rulemaking, and Treasury is continuing to consider this issue in connection with both rulemakings.

The proposed definition of *foreign bank* is identical to the definition proposed in Treasury's Section 313/319 NPRM. For these purposes, a foreign bank is any organization that (1) is organized under the laws of a foreign country, (2) engages in the business of banking, (3) is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations, and (4) receives deposits in the course of its business. A foreign bank also includes a branch of a foreign bank located in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands. A foreign bank does not include an agency or branch of a foreign bank located in the United States or an insured bank organized in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands. In addition, a foreign central bank or foreign monetary authority that functions as a central bank is not a foreign bank, nor are certain international financial institutions of which the U.S. is a member, or which Treasury otherwise designates.

The proposed definition of *foreign financial institution* is based upon the definition of "covered financial institution" in this proposed rule. It includes any foreign bank (as defined in the proposed rule). It also includes other entities organized under foreign (non-U.S.) law (other than branches or offices of such entities in the United States) that, if they were organized in the U.S., would fall within the proposed definition of covered financial institution; *i.e.*, financial institutions that are required pursuant to Treasury's regulations implementing section 352 of the Act to have an anti-money laundering program. At the date of this proposal, this would include federally insured depository institutions and credit unions, securities broker-dealers, futures commission merchants and introducing brokers, casinos, mutual funds, money services businesses and operators of credit card systems. Over the coming months Treasury will be requiring additional financial institutions to adopt anti-money laundering programs, at which time the corresponding foreign entities would be included within the definition of foreign financial institution.

The proposal defines *non-U.S. person* as an individual that is neither a U.S. citizen nor a lawful permanent resident as defined in 26 U.S.C. 7701(b)(6).

The proposed rule adopts, with one change, the language of section 312 of the Act that defines *offshore banking license* as a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license. The proposed regulation uses the term "jurisdiction" rather than "country," as there may be political subdivisions of certain countries that issue offshore banking licenses.

The proposed rule defines *person* by reference to 31 CFR 103.11(z).

The proposed rule adopts the definition of *private banking account* in section 312 of the Act, which defines the term to mean an account that requires a minimum deposit of at least $1,000,000, that is established for one or more individuals, and that is assigned to or administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

The proposal defines the term *senior foreign political figure* to include a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity formed by or for the benefit of any such individual; an immediate family member of such an individual; or any individual publicly known (or actually known by the relevant financial institution) to be a close personal or professional associate of such an individual. Unless the financial institution has actual

[6] 31 U.S.C. 5318(j). For the Section 313/319 NPRM, "covered financial institutions" are those described in BSA section 5312(a)(2)(A) through (G) (insured depository institutions, trust companies, private bankers, U.S. branches of foreign banks, credit unions, and securities broker-dealers).

knowledge of the association, it must be public in some degree; an individual will not be brought within the definition if there is no readily available information about his or her ties to foreign officials. For this purpose, (1) an *immediate family member* means an individual's spouse, parents, siblings, children, and spouse's parents or siblings, and (2) *senior official* or *senior executive* means an individual with substantial authority over policy, operations, or the use of government-owned resources. The proposed definition is similar to the definition of "Covered Person" in the Guidance on Enhanced Scrutiny issued in 2001 by Treasury, the bank regulators, and the Department of State,[7] and includes both current and former senior foreign political figures.

3. Section 103.176—Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions.

The proposed rule adds to the BSA regulations new § 103.176, which sets forth the due diligence requirements for correspondent accounts maintained by covered financial institutions for foreign financial institutions. It should be noted that the statute takes effect on July 23, 2002 and applies to all correspondent accounts for foreign financial institutions subject to the requirement, regardless of when they were opened.

Section 103.176(a) requires every covered financial institution to maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report any known or suspected money laundering conducted through or involving any correspondent account maintained by such financial institution for a foreign financial institution. This provision contains five specific elements that must be included in all due diligence programs.

The first element is a determination whether the correspondent account is subject to the enhanced due diligence requirements of § 103.176(b). This requires the financial institution to determine, when the correspondent account is maintained for a foreign bank, whether the foreign bank operates under any of certain offshore banking licenses or under a banking license issued by any of certain jurisdictions (as provided in § 103.176(c)).

The second required element is a risk assessment to determine whether the correspondent account poses a significant risk of money laundering activity. The covered financial institution may consider any relevant factors in making this assessment, including the foreign financial institution's line or lines of business, size, customer base, location, products and services offered, the nature of the correspondent account, and the type of transaction activity for which it will be used.

The third required element is consideration of any publicly available information from U.S. governmental agencies and multinational organizations with respect to regulation and supervision, if any, applicable to the foreign financial institution. Covered financial institutions should take steps to avail themselves of public information about jurisdictions in which their foreign financial institution customers are organized or licensed, to assist in determining whether particular correspondent accounts pose significant risks.

The fourth required element of the due diligence program requires a covered financial institution to consider any guidance issued by Treasury or the covered financial institution's functional regulator regarding money laundering risks associated with particular foreign financial institutions and types of correspondent accounts. Again, covered financial institutions should be familiar with any information disseminated by Treasury and other federal regulators that may assist financial institutions in making informed risk assessments with respect to correspondent accounts.

Finally, the due diligence program requires a covered financial institution to review public information to ascertain whether the foreign financial institution has been the subject of any criminal action of any nature, or of any regulatory action relating to money laundering, to determine whether the circumstances of such action may reflect an increased risk of money laundering through the correspondent account.

This list of required elements is intended as a minimum standard for an effective due diligence program. Programs should be risk-focused to ensure that all correspondent accounts receive appropriate due diligence and that correspondent accounts presenting more significant risks of money laundering activity receive scrutiny reasonably designed to detect and report such activity. Programs may include policies and procedures that are more detailed than the basic required elements. Policies and procedures should be tailored to the covered financial institution's business and operations and the types of financial services it offers through correspondent accounts.

Section 103.176(b) imposes three additional due diligence requirements for correspondent accounts for foreign banks operating under certain types of licenses (as provided in § 103.176(c)). For each such correspondent account, a covered financial institution's program must include the three additional elements of (1) enhanced scrutiny, (2) a determination whether the foreign bank maintains its own correspondent accounts for other foreign banks, and (3) identification of certain owners of the foreign bank.

First, § 103.176(b)(1) requires a covered financial institution to take reasonable steps to conduct enhanced scrutiny of such correspondent accounts, to guard against money laundering and to detect and report known or suspected illegal activity occurring through the correspondent account. Enhanced scrutiny shall include obtaining and reviewing documentation from the foreign bank about its own anti-money laundering program and considering the extent to which such program is reasonably designed to detect and prevent money laundering. This is a required element of the program, and the program must include it for all correspondent accounts subject to enhanced scrutiny.

In addition, enhanced scrutiny shall, when appropriate, also include (1) monitoring transactions through the correspondent account reasonably designed to detect money laundering; and (2) obtaining information about the sources and beneficial ownership of funds in the correspondent account, as well as information about the identity of any persons who will have authority to direct transaction activity of the correspondent account. While these two components of enhanced scrutiny are not required in every instance, they may be a necessary element of enhanced scrutiny in some cases based on the financial institution's risk assessment of the correspondent account. These elements are also not a comprehensive list of the components of enhanced scrutiny, and the program may provide for additional steps when appropriate in light of the risk assessment of an account. A financial institution's due diligence program should provide for when these and other measures are necessary to ensure that the financial institution has taken reasonable steps, on a risk-based analysis, to guard against money laundering through foreign correspondent accounts.

[7] Guidance on Enhanced Scrutiny for Transactions that May Involve the Proceeds of Foreign Official Corruption, issued by Treasury, the Federal Reserve, OCC, FDIC, OTS, and the Department of State, January 2001 ("2001 Guidance").

The second additional requirement, set forth in § 103.176(b)(2), is that for any correspondent account for a foreign bank described in § 103.176(c), a covered financial institution must take reasonable steps to determine whether the foreign bank itself maintains correspondent accounts for other foreign banks. Each covered financial institution's program should include policies and procedures for assessing and minimizing risks associated with doing business with foreign banks that have further correspondent relationships. The due diligence program required by the proposed rule must include procedures for the financial institution to follow in these circumstances, including determining the identity of the other foreign banks and, where appropriate in light of the risks involved, identifying the measures in place at the foreign correspondent bank to prevent money laundering through the financial institution's correspondent account.

Finally, § 103.176(b)(3) requires a covered financial institution to take reasonable steps to determine the ownership of any foreign bank described in § 103.176(c) whose shares are not publicly traded. For purposes of this requirement, an *owner* is defined as any person who directly or indirectly owns, controls, or has power to vote 5 percent or more of any class of securities of a foreign bank. A reasonable step would be to obtain from the foreign bank a statement as to whether its shares are publicly traded, and if not, a list of its owners (as defined), including the percentage of shares held by each and nature of interest (*e.g.*, direct or indirect). Also for purposes of this requirement, *publicly traded* means shares that are traded on an exchange or an organized over-the-counter market that is regulated by a foreign securities authority as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(50)).

Section 103.176(c) lists the categories of foreign banks for which the additional requirements of § 103.176(b) apply. Under section 312 of the Act, these additional requirements apply to a correspondent account for any foreign bank operating under (1) an offshore banking license; (2) a banking license issued by a foreign country that is designated as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member,[8] with which designation the United States representative to the group or organization concurs; or (3) a banking license issued by a foreign country that has been designated by Treasury as warranting special measures due to money laundering concerns.

Section 103.176(c) incorporates the requirements of section 312, with some clarification. Correspondent accounts for a branch of a foreign bank operating under an offshore branch license would not be subject to the additional requirements of § 103.176(b) if the foreign bank has been found, or is chartered in a jurisdiction where one or more foreign banks have been found, by the Federal Reserve to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction,[9] and such foreign bank does not fall within either of the other two categories of foreign banks for which the additional requirements apply. A covered financial institution's due diligence program should nevertheless include consideration of the location of the foreign bank's branch in the due diligence program required by § 103.176(a). In identifying the jurisdictions referred to in § 103.176(c)(2) and (3), covered financial institutions should refer to Treasury guidance available on the FinCEN Web site, or guidance available on the FATF Web site (*www.oecd.org/fatf*).

Section 103.176(d) states that a covered financial institution's due diligence program for foreign correspondent accounts must also include procedures to be followed when due diligence cannot be adequately performed. That is, if the financial institution is unable to take reasonable steps to detect and report possible instances of money laundering, or to obtain adequate information regarding correspondent accounts for banks described in § 103.176(c), the due diligence program should provide for steps to be taken, including, as appropriate, refusing to open the account, suspending transaction activity, filing suspicious activity reports, or closing the account.

4. Section 103.178—Due Diligence Programs for Private Banking Accounts for Non-U.S. Persons.

The proposed rule adds to the BSA regulations new § 103.178, which sets forth the due diligence requirements applicable to private banking accounts for non-U.S. persons. It should be noted that, as with correspondent accounts, the statute takes effect on July 23, 2002 and applies to all private banking accounts for non-U.S. persons subject to the requirement, regardless of when they were opened.

Section 103.178(a) requires each financial institution to maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering conducted through or involving any private banking account that the financial institution maintains for or on behalf of a non-U.S. person.

Section 103.178(b) sets forth minimum due diligence requirements for such accounts. Under paragraphs (b)(1)–(3), a covered financial institution's due diligence program must include reasonable steps to ascertain the identity of all nominal holders and holders of any beneficial ownership interest in the private banking account, including the lines of business and source of wealth of such persons, source of funds deposited into the account, and whether any such holder may be a senior foreign political figure. Reasonable steps may include various means of ascertaining identity and source of funds, including confirming information provided by accountholders or their agents, and contacting beneficial owners, as appropriate, to confirm their ownership interests and source of funds. The level of confirmation necessary to ascertain all nominal and beneficial owners may vary depending upon the particular customer, and an effective due diligence program will provide for consideration of the various risk factors that may be involved. Reasonable steps to ascertain whether any holder may be a senior foreign political figure should generally include some review of public information, including information available on databases on the Internet. Financial institutions should carefully consider the best methods of discharging their due diligence obligations in this regard, giving consideration to the characteristics of the various foreign jurisdictions and types of senior political figures that are

[8] The only intergovernmental organization that currently designates countries as noncooperative with international anti-money laundering standards is the Financial Action Task Force on Money Laundering (FATF), an intergovernmental body whose purpose is the development of policies, at both the national and international levels, to combat money laundering. The U.S. has concurred in all designations made to date.

[9] As of May 10, 2002, the Federal Reserve has made such a finding with respect to one or more foreign banks chartered in the following jurisdictions: Austria, Belgium, France, Germany, Greece, Italy, Ireland, the Netherlands, Portugal, Spain, Switzerland, the United Kingdom, Canada, Mexico, Argentina, Brazil, Chile, Australia, Hong Kong Special Administrative Region, Israel, Japan, Korea, Taiwan, and Turkey.

relevant, and the availability of databases that are useful in making this determination. Should a financial institution learn at any time that an account holder is a senior foreign political figure, it would be required to apply enhanced scrutiny as required by § 103.178(c)(2).

Section 103.178(b)(4) requires the due diligence program to include procedures ensuring that the covered financial institution will take reasonable steps to detect and report any known or suspected violation of law conducted through or involving a private banking account for a non-U.S. person.

Section 103.178(c)(1) specifies that if a financial institution's due diligence program reveals information indicating that a particular individual may be a senior foreign political figure, it should exercise reasonable diligence in seeking to determine whether the individual is, in fact, a senior foreign political figure.[10] The paragraph provides further that if the institution does not learn of any information indicating that an individual may be a former senior foreign political figure (which by definition includes an immediate family member or close associate of such a person), and the individual states that he or she is not a former senior foreign political figure, the institution may rely on such statement, in addition to the results of their due diligence, in determining whether the account is subject to the enhanced due diligence requirements of § 103.178(c)(2).

Section 103.178(c)(2) specifies that the covered financial institution's due diligence program must include enhanced scrutiny of private banking accounts held by or on behalf of senior foreign political figures that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption. At the outset, the decision to open such an account should generally be approved by senior management. The appropriate level of enhanced scrutiny will vary according to the circumstances and risk factors presented. For example, if a private banking customer is from a jurisdiction where it is well known through publicly available sources that current or former political figures have been implicated in large-scale corruption, it may be appropriate to probe regarding employment history and sources of funds to a greater extent than for a customer from a jurisdiction with no such history. The length of time since a former senior political figure has been in office could influence the degree of scrutiny applied to the source of their funds. The enhanced scrutiny required by § 103.178(c)(2) should take all risk factors into consideration, including but not limited to the purpose and use of the private banking account, location of the account holder(s), source of funds in the account, the type of transactions engaged in through the account, and the jurisdictions involved in such transactions. Although the rule does not specify the extent, if any, that transaction monitoring must take place, an effective due diligence program should dictate when risk factors will require transaction monitoring, and to what extent, as necessary to detect and report proceeds of foreign corruption.[11]

For purposes of § 103.178(c), *proceeds of foreign corruption* means assets or property that are acquired by, through, or on behalf of a senior foreign political figure through misappropriation, theft, or embezzlement of public funds, or the unlawful conversion of property of a foreign government, or through acts of bribery or extortion, and shall include other property into which such assets have been transferred.

Section 103.178(d) states that a financial institution's due diligence program for private banking accounts must also include procedures to be followed when due diligence cannot be adequately performed. That is, if the financial institution is unable to take reasonable steps to detect and report possible instances of money laundering, the due diligence program should provide for steps to be taken, including, as appropriate, not opening the account, suspending transaction activity, filing suspicious activity reports, or closing the account.

IV. Request for Comments

Treasury invites comment on all aspects of the proposed regulation, and specifically seeks comment on the following issues:

1. Is the definition of *correspondent account* appropriate for the purposes of this proposal? Should Treasury modify the definition of the term "correspondent account" for certain covered financial institutions?

2. Is the application of the proposed rule to *covered financial institutions* (as defined) appropriate? Do all of these U.S. financial institutions maintain correspondent accounts for foreign financial institutions?

3. Is the inclusion of foreign branches of U.S. depository institutions within the *covered financial institution* definition appropriate? Do other covered financial institutions have foreign branches that maintain correspondent accounts for foreign financial institutions?

4. Is the definition of *foreign financial institution* appropriate? Are there foreign financial institutions that should not be included within the definition? Alternatively, should the regulation apply to correspondent accounts maintained for other types of foreign financial institutions as well?

5. Is the definition of *beneficial ownership interest* sufficiently clear? Should it be further narrowed or clarified?

6. Does the definition of *private banking account* require clarification, for banks, securities or futures firms? Are there other covered financial institutions that maintain private banking accounts? Is the limitation in the statutory definition to accounts that require a minimum deposit of $1,000,000 consistent with the purposes of this provision?

7. Does the definition of *senior foreign political figure* require further clarification? If so, how might this be achieved?

8. Is the exclusion contained in § 103.176(c)(1) from the enhanced due diligence requirements for certain foreign banks operating under offshore banking licenses appropriate? For example, should correspondent accounts for offshore-licensed branches of foreign banks affiliated with covered financial institutions also be excluded from the enhanced due diligence requirement?

9. Should the rule generally adopt a more risk-based approach to the due diligence program and include fewer prescriptive and detailed provisions? Alternatively, should it include more prescriptive provisions in order to ensure that financial institutions will take additional steps to detect and report suspicious activity?

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*), it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule provides guidance to financial institutions concerning the mandated due diligence requirements in section 312. Moreover, the financial institutions covered by the rule tend to be larger institutions. Accordingly, a regulatory flexibility analysis is not required.

VI. Executive Order 12866

This interim final rule is not a "significant regulatory action" as

[10] *See* 2001 Guidance, Part II.C.

[11] For an enumeration of some risk factors that may warrant further scrutiny, see 2001 Guidance, Part II.D.

defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

List of Subjects in 31 CFR Part 103

Banks, banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth above, FinCEN is proposing to amend subpart I of 31 CFR Part 103 as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5331; title III, secs. 312, 313, 314, 319(b), 352, Pub. L. 107–56, 115 Stat. 307.

2. Add the undesignated centerheading "ANTI-MONEY LAUNDERING PROGRAMS" immediately before § 103.120.

§ 103.120 [Amended]

3. Section 103.120 is amended as follows:

a. Paragraph (b) is amended by adding "the requirements of §§ 103.176 and 103.178 and" immediately after the words "complies with".

b. Paragraph (c)(1) is amended by adding "the requirements of §§ 103.176 and 103.178 and" immediately after the words "complies with".

4. Add new undesignated centerheadings and §§ 103.175 through 103.178, 103.185, and 103.190 to subpart I to read as follows:

SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS

LAW ENFORCEMENT ACCESS TO FOREIGN BANK RECORDS

SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS

§ 103.175 Definitions.

Except as otherwise provided, the following definitions apply for purposes of §§ 103.176 through 103.190:

(a) [Reserved]

(b) *Beneficial ownership interest* in an account means:

(1) A noncontingent legal authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account); provided, that a legal authority to fund or to direct payments into an account shall mean a specific contractual or judicial authority to do so; or

(2) A noncontingent legal entitlement to all or any part of the corpus or income of the account, but shall not include any interest of less than the lesser of $1,000,000 or five percent of either the corpus or income of the account.

(c) *Correspondent account* means:

(1) For purposes of § 103.176, an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution; and

(2) [Reserved]

(d) *Covered financial institution* means:

(1) For purposes of §§ 103.176 and 103.178:

(i) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))) and any foreign branch of an insured bank;

(ii) A commercial bank;

(iii) An agency or branch of a foreign bank in the United States;

(iv) A federally insured credit union;

(v) A thrift institution;

(vi) A corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*);

(vii) A broker or dealer registered, or required to register, with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(viii) A futures commission merchant registered, or required to register, under, and an introducing broker as defined in § 1a23 of, the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

(ix) A casino (as defined in § 103.11(n)(5));

(x) A mutual fund (as defined in § 103.130);

(xi) A money services business (as defined in § 103.11(uu)); and

(xii) An operator of a credit card system (as defined in § 103.135).

(2) [Reserved].

(e) *Foreign bank.* (1) The term *foreign bank* means any organization that:

(i) Is organized under the laws of a foreign country;

(ii) Engages in the business of banking;

(iii) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; and

(iv) Receives deposits in the regular course of its business.

(2) For purposes of this definition:

(i) The term *foreign bank* includes a branch of a foreign bank in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

(ii) The term *foreign bank* does not include:

(A) An agency or branch of a foreign bank in the United States, other than in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands;

(B) An insured bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands;

(C) A foreign central bank or foreign monetary authority that functions as a central bank; and

(D) The African Development Bank, African Development Fund, Asian Development Bank; Bank for International Settlements, European Bank for Reconstruction and Development, Inter-American Development Bank, International Bank for Reconstruction and Development (the World Bank), International Finance Corporation, International Monetary Fund, North American Development Bank, International Development Association, Multilateral Investment Guarantee Agency, and similar international financial institutions of which the United States is a member or as otherwise designated by the Secretary.

(f) *Foreign financial institution* means a foreign bank and any other person organized under foreign law (other than a branch or office of such person in the United States) which, if organized in the United States, would be required to establish an anti-money laundering program pursuant to §§ 103.120 through 103.169. For purposes of this definition:

(1) The dollar limitations in §§ 103.11(uu)(1) through (4) shall not be taken into account when determining whether a person organized under foreign law would, if organized in the United States, be a money services business required to establish an anti-money laundering program pursuant to § 103.125; and

(2) No person organized under foreign law shall be deemed to be a foreign financial institution by virtue of § 103.11(uu)(6).

(g) [Reserved]

(h) [Reserved]

(i) *Non-United States person* or *non-U.S. person* means an individual who is neither a United States citizen nor a lawful permanent resident as defined in 26 U.S.C. 7701(b)(6).

(j) *Offshore banking license* means a license to conduct banking activities that prohibits the licensed entity from conducting banking activities with the citizens of, or in the local currency of, the jurisdiction that issued the license.

(k) [Reserved]

(l) *Person* has the same meaning as provided in § 103.11(z).

(m) [Reserved]

(n) *Private banking account* means an account (or any combination of accounts) that:

(1) Requires a minimum aggregate amount of funds or other assets of not less than $1,000,000;

(2) Is established on behalf of or for the benefit of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

(3) Is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a covered financial institution acting as a liaison between the covered financial institution and the direct or beneficial owner of the account.

(o) *Senior foreign political figure.* (1) The term *senior foreign political figure* means:

(i) A current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned commercial enterprise;

(ii) A corporation, business or other entity that has been formed by, or for the benefit of, any such individual;

(iii) An immediate family member of any such individual; and

(iv) A person who is widely and publicly known (or is actually known by the relevant covered financial institution) to maintain a close personal or professional relationship with any such individual.

(2) For purposes of this definition:

(i) *Senior official or executive* means an individual with substantial authority over policy, operations, or the use of government-owned resources; and

(ii) *Immediate family member* means a spouse, parents, siblings, children, and a spouse's parents or siblings.

(p) [Reserved]

§ 103.176 Due diligence programs for correspondent accounts for foreign financial institutions.

(a) *In general.* A covered financial institution shall maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report any known or suspected money laundering activity conducted through or involving any correspondent account maintained by such financial institution for a foreign financial institution. Such procedures shall include:

(1) Determining whether the correspondent account is subject to paragraph (b) of this section;

(2) Assessing whether the foreign financial institution presents a significant risk of money laundering, based on any relevant factors;

(3) Considering information available from U.S. governmental agencies and multinational organizations with respect to supervision and regulation, if any, applicable to the foreign financial institution;

(4) Reviewing guidance issued by Treasury or its Federal functional regulator regarding money laundering risks associated with particular foreign financial institutions and correspondent accounts for foreign financial institutions generally; and

(5) Reviewing public information to ascertain whether the foreign financial institution has been the subject of criminal action of any nature, or regulatory action relating to money laundering.

(b) *Enhanced due diligence for certain foreign banks.* In the case of a correspondent account maintained for a foreign bank described in paragraph (c) of this section, the due diligence program required by paragraph (a) of this section shall also include, at a minimum, the following elements:

(1) Enhanced scrutiny of such correspondent account to guard against money laundering and to ensure detection and reporting of known or suspected illegal activity. Enhanced scrutiny shall also include obtaining and reviewing documentation relating to the foreign bank's anti-money laundering program and considering the extent to which such program is reasonably designed to detect and prevent money laundering, and when appropriate shall also include:

(i) Monitoring of transactions through the correspondent account reasonably designed to detect money laundering; and

(ii) Obtaining information from the foreign bank about the identity of any persons that will have authority to direct transactions through the correspondent account, and the sources and beneficial ownership of funds or other assets of such persons in the correspondent account.

(2) A determination whether the foreign bank holding the account maintains correspondent accounts for other foreign banks. If the foreign bank does maintain correspondent accounts for other foreign banks, the due diligence program required by paragraph (a) of this section shall provide for:

(i) Documentation of the identity of the other foreign banks for which the foreign bank maintains correspondent accounts; and

(ii) Policies and procedures for assessing and minimizing risks associated with the foreign bank's correspondent accounts for other foreign banks.

(3)(i) For any foreign bank whose shares are not publicly traded, the identification of each owner of the foreign bank and the nature and extent of each owner's ownership interest.

(ii) For purposes of paragraph (b)(3)(i) of this section:

(A) *Owner* means any person who directly or indirectly owns, controls, or has voting power over 5 percent or more of any class of securities of a foreign bank; and

(B) *Publicly traded* means shares that are traded on an exchange or an organized over-the-counter market that is regulated by a foreign securities authority as defined in section 3(a)(50) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(50)).

(c) *Foreign banks to be accorded enhanced due diligence.* The due diligence program elements of paragraph (b) of this section are required for any correspondent account maintained for a foreign bank that operates under:

(1) An offshore banking license, other than a branch of a foreign bank if such foreign bank:

(i) Does not fall within paragraph (c)(2) or (3) of this section; and

(ii) Has been found, or is chartered in a jurisdiction where one or more foreign banks have been found, by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act or the International Banking Act, to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction;

(2) A license issued by a foreign country that has been designated by an intergovernmental group or organization to which the United States belongs as noncooperative with international anti-money laundering principles or procedures and with which designation the U.S. representative concurs; or

(3) A license issued by a foreign country that Treasury has identified (by regulation or other public issuance) as warranting special measures due to money laundering concerns.

(d) *Special procedures when due diligence cannot be performed.* The due diligence program required by paragraph (a) of this section shall include procedures to be followed in circumstances in which a covered financial institution cannot perform appropriate due diligence with respect to a correspondent account, including when the institution should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

§ 103.177 Records concerning owners of foreign banks and agents designated to receive service of legal process; prohibition on correspondent accounts for foreign shell banks. [Reserved]

§ 103.178 Due diligence programs for private banking accounts for non-U.S. persons.

(a) *In general.* A covered financial institution shall maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering conducted through or involving any private banking account maintained by such financial institution in the United States by or on behalf of a non-U.S. person.

(b) *Minimum requirements.* The due diligence program required by paragraph (a) of this section shall, at a minimum, ensure that the financial institution takes reasonable steps to:

(1) Ascertain the identity of all nominal holders and holders of any beneficial ownership interest in the private banking account, including information on those holders' lines of business and source of wealth;

(2) Ascertain the source of funds deposited into the private banking account;

(3) Ascertain whether any such holder may be a senior foreign political figure; and

(4) Report, in accordance with applicable law and regulation, any known or suspected violation of law conducted through or involving the private banking account.

(c) *Special requirements for senior foreign political figures.* (1) In performing the due diligence program required by paragraph (a) of this section:

(i) If a covered financial institution learns of information indicating that a particular individual may be a senior foreign political figure, it should exercise reasonable diligence in seeking to determine whether the individual is, in fact, a senior foreign political figure.

(ii) If a covered financial institution does not learn of any information indicating that an individual may be a former senior foreign political figure, and the individual states that he or she is not a former senior foreign political figure, the financial institution may rely on such statement in determining whether the account is subject to the due diligence requirements of paragraph (c)(2) of this section.

(2) In the case of any private banking account for which a senior foreign political figure is a nominal holder or holds a beneficial ownership interest, the due diligence program required by paragraph (a) of this section shall include policies and procedures reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

(3) For purposes of this paragraph (c), the term *proceeds of foreign corruption* means assets or property that are acquired by, through, or on behalf of a senior foreign political figure through misappropriation, theft or embezzlement of public funds, or the unlawful conversion of property of a foreign government, or through acts of bribery or extortion, and shall include other property into which such assets have been transformed or converted.

(d) *Special procedures when due diligence cannot be performed.* The due diligence program required by paragraph (a) of this section shall include procedures to be followed in circumstances in which a covered financial institution cannot perform appropriate due diligence with respect to a private banking account, including when the institution should refuse to open the account, suspend transaction activity, file a suspicious activity report, or close the account.

LAW ENFORCEMENT ACCESS TO FOREIGN BANK RECORDS

§ 103.185 Summons or subpoena of foreign bank records.

[Reserved]

§ 103.190 Termination of correspondent relationship.

[Reserved]

Dated: May 22, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–13411 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–054]

RIN 2115–AE47

Drawbridge Operation Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the Long Beach Bridge, at mile 4.7, across Reynolds Channel, New York. This proposed temporary change to the drawbridge operation regulations would allow the bridge to operate only one lift span for openings to be granted at specific times after a one-hour notice is given. The bridge also would be closed at night from 11 p.m. to 5 a.m., daily. Two five-day bridge closures between September 30, 2002 and April 30, 2003, will also be required. This action is necessary to facilitate structural repairs at the bridge.

DATES: Comments must reach the Coast Guard on or before July 29, 2002.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–054), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this 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 a meeting by writing to the First Coast Guard District, Bridge Branch, 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

The Long Beach Bridge has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water. The existing regulations are listed at 33 CFR 117.799(g).

The bridge owner, Nassau County Department of Public Works, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge. The bridge will not be able to open both spans at all times for vessel traffic during these repairs and will be closed to marine traffic during other periods. Single-leaf openings will occur on the even hours 8 a.m. to 4 p.m., daily, after a one-hour notice is given and the bridge will be closed daily from 11 p.m. and 5 a.m. Additionally, two Monday through Friday, five day closures will be required between September 30, 2002 and April 30, 2003, to perform several phases of the bridge structural repairs. The single span, timed opening schedule, advance notice and closure periods are necessary in order to perform the required repair work.

Discussion of Proposal

This proposed temporary change to the drawbridge operation regulations would allow the bridge to operate, from September 3, 2002 through June 30, 2003, as follows:

Only one span need be opened for vessel traffic on the even hour from 8 a.m. to 4 p.m., daily, after at least a one-hour advance notice is given.

The draw need not open from 11 p.m. to 5 a.m., daily.

The draw need not open for vessel traffic for two Monday through Friday five-day periods between September 30, 2002 and April 30, 2003, each to be announced in the Local Notice to Mariners as well as in a Broadcast Notice to Mariners.

The total number of bridge openings indicated in the bridge opening logs show two or less openings daily on weekdays with a small increase on weekends.

The Coast Guard believes this rulemaking is reasonable based upon the relatively low number of bridge openings at this bridge during past years and the fact that this work is vital, necessary maintenance required to assure continued safe operation of the bridge.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 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, Feb. 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. This conclusion is based on the fact that there have been few requests to open the bridge historically.

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.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that there have been few requests historically.

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 (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant

Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From September 3, 2002 through June 30, 2003, § 117.799 is amended by suspending paragraph (g) and adding a new paragraph (j) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(j) The Long Beach Bridge, mile 4.7, across Reynolds Channel, shall open on signal; except that:

(1) Only one lift span need be opened for vessel traffic, on the even hour, 8 a.m. to 4 p.m., daily, after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) The draw need not open for vessel traffic from 11 p.m. to 5 p.m., daily.

(3) The draw need not open for vessel traffic for two periods of five consecutive days between September 30, 2002 and April 30, 2003, to be announced in the Local Notice to Mariners and in a Broadcast Notice to Mariners.

Dated: May 13, 2002.

V.S. Crea,

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

[FR Doc. 02–13512 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–02–014]

RIN 2115–AE47

Drawbridge Operation Regulation; Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the regulations that govern the operation of the Isabel S. Holmes Bridge across the Northeast Cape Fear River, mile 1.0, in Wilmington, North Carolina. The proposed rule will reduce the number of bridge openings for transit of pleasure craft during a four-year bridge repair project. This change would reduce traffic delays while still providing for the reasonable needs of navigation.

In addition, an administrative correction is being made to the name of the waterway in 33 CFR Part 117.829. The "Northeast River" will be changed to the "Northeast Cape Fear River".

DATES: Comments and related material must reach the Coast Guard on or before July 29, 2002.

ADDRESSES: You may mail comments and related material to Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The Commander (Aowb), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

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 (CGD05–02–014), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Commander, Fifth Coast Guard District 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 Isabel S. Holmes Drawbridge is owned and operated by the North Carolina Department of Transportation (NCDOT). The regulation in 33 CFR 117.5 requires the bridge to open promptly and fully once a request to open is received. When the bridge is closed there is 40 feet of vertical clearance.

The Isabel S. Holmes Bridge crosses the Northeast Cape Fear River. It makes connections with Route 133 and the US–17 corridor, which supports the general north/south flow of traffic through the region. The bridge is one of two river crossings under high vehicular use in the region. According to figures from 1999, approximately 19,000 vehicles pass over the bridge every day. Between 1999 and the present, an average of 12 pleasure craft per month

transited the area and required bridge openings between the hours of 6 a.m. and 6 p.m. Motorists do not have an alternate route when traveling this stretch of highway unless they drive several traffic congested miles. Boaters do not have an alternate route to transit this waterway when the drawbridge is closed.

NCDOT requested permission to decrease the number of openings for pleasure craft to avoid excessive/hazardous traffic back-ups during repairs. NCDOT proposes an intermodal compromise that would limit the times of draw openings during hours of bridge repair. NCDOT asserts that by closing the bridge to pleasure craft during daytime hours, except for two scheduled openings per day for waiting vessels, vehicular traffic congestion will be reduced and highway safety will be enhanced. NCDOT provided statistical data, which supports the traffic counts for a two-way four-lane bridge being changed to a two-way two-lane bridge. The data also revealed that the draw was opened an average of 12 times/month for pleasure craft, between the hours of 6 a.m. and 6 p.m. Overall, the Coast Guard believes that closure during the proposed time periods would not overburden recreational marine traffic while allowing the continued use of two lanes for the two-way flow of vehicular traffic.

33 CFR 117.829 currently regulates the scheduled opening of the Seaboard System Railroad Bridge across Northeast Cape Fear River at mile 27.0. The existing regulatory text contains no paragraph number. The regulatory text describes the "Northeast River." This regulation is incorrectly titled the "Northeast River." The proposed rule for the Isabel S. Holmes Bridge will be included in the same section.

Discussion of Proposed Rule

This proposed rule will be in place for four years while bridge repairs are conducted. The bridge must remain usable during repairs to avoid traffic hazards, increased traffic from the Smith Creek Parkway and any other potential local economic impacts. It must also remain operational to accommodate the needs of navigation.

The draw currently opens on signal. The proposed rule will allow the draw to remain closed to pleasure craft from 6 a.m. to 6 p.m., except at 10 a.m. and 2 p.m. when the draw will be opened. The draw will open on signal 24 hours/day to Government and commercial vessels. The draw will open on signal for all waiting vessels between 6 p.m. and 6 a.m. The new schedule will be effective seven days per week.

The proposed rule changes the name of the waterway from the "Northeast River" to the "Northeast Cape Fear River." The name change will accurately reflect the name of this waterway.

The proposed regulation will designate the current regulatory text at 33 CFR 117.829 as paragraph (b). The current regulatory text will be revised to refer to the "Northeast Cape Fear River" rather than the "Northeast River."

Regulatory Evaluation

This proposed temporary 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 temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

We reached this conclusion based on the fact that the proposed changes will not impede maritime traffic transiting the bridge, but merely require mariners to plan their transits in accordance with the scheduled bridge openings, while still providing for the needs of the bridge owner.

Small Entities

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

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

This proposed temporary rule would not have a significant economic impact on a substantial number of small entities because the regulation does not restrict the movement of commercial navigation, but only restricts the movement of pleasure craft (approx. 12 openings/month). In addition, to avoid any potential restriction to navigation, maritime advisories will be widely available to users of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed temporary rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining 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 temporary 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 contact Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

Collection of Information

This temporary proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed temporary rule under that Order and have determined that it does not have implications for federalism.

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 discretionary regulatory actions. 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 temporary 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 temporary rule would not affect 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 temporary 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 temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed temporary rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed temporary rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed temporary rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed temporary rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The proposed temporary rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.829 is revised to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) The draw of the Isabel S. Holmes Bridge, at mile 1.0, at Wilmington, North Carolina will operate as follows:

(1) The draw will be closed to pleasure craft from 6 a.m. to 6 p.m. every day except at 10 a.m. and 2 p.m. when the draw will open for all waiting vessels.

(2) The draw will open on signal for Government and commercial vessels at all times.

(3) The draw will open for all vessels on request signal from 6 p.m. to 6 a.m.

(b) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at least 4 hours notice is given.

Dated: May 16, 2002.

James D. Hull,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 02–13510 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–005]

RIN 2115–AA97

Security Zones; Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish four permanent security zones on the navigable waters of Lake Ontario and the St. Lawrence River in the Captain of the Port Buffalo Zone. These security zones are necessary to protect nuclear power plants and the St. Lawrence Seaway system from possible acts of terrorism. These security zones are intended to restrict vessel traffic from a portion of the St. Lawrence River and Lake Ontario.

DATES: Comments and related material must reach the Coast Guard on or before July 1, 2002.

ADDRESSES: You may mail comments to U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203. The telephone number is (716) 843–9570. Marine Safety Office Buffalo maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LCDR David Flaherty, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9574.

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 (CGD09–02–005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during

the comment period. We may change this 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 a meeting by writing to U.S. Coast Guard Marine Safety Office Buffalo 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

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, and significant damage to the Pentagon. National security and intelligence officials warn that future terrorists attacks are likely.

This proposed rule would establish four permanent security zones: (1) Nine Mile Point and Fitzpatrick Nuclear Power Plants; (2) Moses-Saunders Power Dam; (3) Long Sault Spillway Dam; and (4) Ginna Nuclear Power Plant.

These security zones are necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Buffalo, or his designated representative, would be prohibited from entering or moving within this zone. The Captain of the Port Buffalo, or his on scene representative, may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. In addition to publication in the **Federal Register**, the public will be made aware of the existence of these security zones, exact locations, and the restrictions involved via Local Notice to Mariners and Broadcast Notice to Mariners.

Discussion of Proposed Rule

Following the catastrophic nature and extent of damage realized from the attacks of September 11, this proposed rulemaking is necessary to protect the national security interests of the United States against future attacks.

On September 27, 2001, we published several temporary final rules establishing the following security zones: on the waters of Lake Ontario around Nine Mile Point and Fitzpatrick Nuclear Power Plants (66 FR 49285); on the waters of the St. Lawrence River around the Moses-Saunders Power Dam (66 FR 49288); and on the waters of Lake Ontario around Ginna Nuclear Power Plant (66 FR 49284).

This current rulemaking proposes to establish permanent security zones that are smaller in size in place of those temporary security zones already established for the Moses-Saunders Power Dam and the Ginna Nuclear Power Plant.

This proposed rule would establish an additional security zone on the St. Lawerence River around the Long Sault Spillway Dam. Currently, a security zone is not in place surrounding the spillway.

Regulatory Evaluation

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

Small Entities

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

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.

The proposed security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would not obstruct the regular flow of commercial traffic and would allow vessel traffic to pass around the security zones.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed 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 contact the office listed in **ADDRESSES** in this preamble. 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 no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. 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 affect 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action, therefore it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

§ 165.T09–999 [Removed]

2. Remove § 165.T09–999.

§ 165.T09–101 [Removed]

3. Remove § 165.T09–101.

§ 165.T09–103 [Removed]

4. Remove § 165.T09–103.

5. Add § 165.911 to read as follows:

§ 165.911 Security Zones; Captain of the Port Buffalo Zone.

(a) *Location.* The following are security zones:

(1) *Nine Mile Point and Fitzpatrick Nuclear Power Plants.* The waters of Lake Ontario bounded by the following area, starting at 43°30.8′ N, 076°25.7′ W; then north to 43°31.2′ N, 076°25.7′ W; then east-northeast to 43°31.6′ N, 076°24.9′ W; then east to 43°31.8′ N, 076°23.2′ W; then south to 43°31.5′ N, 076°23.2′ W; and then following the shoreline back to the point of origin (NAD 83).

(2) *Ginna Nuclear Power Plant.* The waters of Lake Ontario bounded by the following area, starting at 43°16.9′ N, 077°18.9′ W; then north to 43°17.3′ N, 077°18.9′ W; then east to 43°17.3′ N, 077°18.3′ W; then south to 43°16.7′ N, 077°18.3′ W; then following the shoreline back to starting point (NAD 83).

(3) *Moses-Saunders Power Dam.* The waters of the St. Lawrence River bounded by the following area, starting at 45°00.73′ N, 074°47.85′ W; southeast following the international border to 45°00.25′ N, 074°47.56′ W; then southwest to 45°00.16′ N, 074°47.76′ W; then east to the shoreline at 45°00.16′ N, 074°47.93′ W; then northwest to 45°00.36′ N, 074°48.16′ W; then northeast back to the starting point (NAD 83).

(4) *Long Sault Spillway Dam.* The waters of the St. Lawrence River bounded by the following area, starting at 44°59.5′ N, 074°52.0′ W; north to 45°00.0′ N, 074°52.0′ W; east to 45°00.0′ N, 074°51.6′ W, then south to 44°59.5′ N, 074°51.6′ W; then west back to the starting point (NAD 83).

(b) *Regulations.* (1) In accordance with § 165.33, entry into these zones is prohibited unless authorized by the Coast Guard Captain of the Port Buffalo.

(2) Persons desiring to transit the area of the Nine Mile Point and Fitzpatrick Nuclear Power Plants or Ginna Nuclear Power Plant security zones must contact the Captain of the Port Buffalo at telephone number (716) 843–9570, or on VHF/FM channel 16 to seek permission to transit the area. Persons desiring to transit the area of the Moses-Saunders Power Dam or Long Sault Spillway Dam security zones must contact the Supervisor, Marine Safety Detachment Massena at telephone number (315) 764–3284, or on VHF/FM channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: May 17, 2002.

S.D. Hardy,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 02–13515 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB DOCKET NO. 02–30; FCC 02–37]

Licensing Domestic Satellite Earth Stations in the Bush Communities of Alaska

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (FCC) is proposing to terminate its Alaska Bush Earth Station Policy. The policy bars telephone carriers from obtaining licenses to install and operate satellite earth stations to provide interexchange service in any rural Alaskan community of less than 1,000 population where such service is already available through a satellite link provided by another carrier. The Bush Policy, which stems from a 1972 decision, is an exception to the FCC's current general policy of allowing facilities-based competition in carriage of interstate, interexchange telephone calls. Last year the Regulatory Commission of Alaska repealed a mirror-image regulation barring facilities-based competition in carriage of intrastate calls to or from Bush communities. The Commission contends that no showing has ever been made that the Bush exception to the

general pro-competition policy is necessary to protect the public interest. The intended effect is to invites public comment on this proposal.

DATES: Comment are due on or before July 1, 2002 and reply comment are due on or before July 15, 2002.

ADDRESSES: Electronic comments may be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed though the ECFS can be sent as an electronic file via Internet to *http://www.fcc.gov/e-file/ecfs.html.* All other filing must be sent to Office of Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William Bell at (202) 418–0771. Internet: *wbell@fcc.gov,* International Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) CC Docket No. 92–297, FCC 01–164, adopted May 22, 2001 and released on May 24, 2001. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898 or via e-mail *qualexint@aol.com.* It is also available on the commission's Web site at *http://www.fcc.gov.*

Summary of the Notice of Proposed Rulemaking

The Bush Policy is an isolated exception to the Commission's interstate MTS open-entry policy. The Commission adopted the restrictive Bush Policy on the basis of a finding that applications for "duplicative" Bush earth stations were mutually exclusive. The finding was made before the advent of MTS competition, and was based on a regulatory policy designed to prevent monopoly carriers from building unneeded facilities in order to obtain larger disbursements from pooled MTS revenues at the expense of other carriers and ratepayers. We see no reason to continue to prevent non-dominant carriers from investing in facilities at their own expense to compete with a carrier with an established facilities monopoly.

We believe that in the current environment—particularly now that the Alaska Commission has eliminated the parallel intrastate entry barrier—it is time to remove the remaining barrier against facilities-based interstate MTS competition in Bush Alaska. We expect that facilities-based competition in the provision of interstate MTS in Bush communities will produce public interest benefits of the same kind that the Commission envisioned when it adopted the general open-entry policy for the interstate MTS market, that the Bureau envisioned when granting GCI's waiver request, and that the Alaska Commission envisioned when it repealed §§ 52.355 of the Commission's rules. As the Commission observed in the MTS–WATS Second Report and Order, 47 FR 54944–01, November 30, 1982 moreover, even the mere possibility of facilities-based competition would establish an incentive for Alascom to operate more efficiently. The potential for such competition would also tend to deter Alascom from overcharging for use of its facilities to provide interstate MTS to subscribers in Bush communities or to complete calls to Bush residents from subscribers in other states.

We invite comment from interested members of the public on our proposal to eliminate the Bush Policy. Any commenter advocating retention of the Policy should demonstrate with clear and convincing evidence that allowing installation and operation of Bush earth stations for facilities-based interstate MTS competition would result in impairment of the quality of service, reduction of the availability of service, or increased cost burdens for ratepayers.

I. Conclusion

Accordingly, we propose to abolish the Alaska Bush Policy. This will eliminate a significant regulatory entry barrier to facilities-based competition in provision of interstate MTS service, advancing a deregulatory process begun two decades ago that has proven enormously beneficial to the general public.

II. Procedural Matters

A. Ex Parte Presentations

This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission rules.

B. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended, ("RFA"), 5 U.S.C. 601, *et seq.* requires preparation of an Initial Regulatory Flexibility Analysis ("IRFA") for comments on proposed rulemaking proceedings, unless the agency certifies that the proposed rules would not have significant economic impact on "a substantial number" of "small entities." The RFA generally defines "small entity" as having the same meaning as the term "small business concern" under the Small Business Act—i.e., a business firm that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Such analysis or certifications need only address the impact on small businesses that would be directly regulated under the proposed rules.

In this Notice of Proposed Rulemaking, the Commission proposes to repeal a regulatory policy that prevents companies from obtaining licenses to operate earth stations in rural Alaska that would carry telephone calls between users in certain Alaskan communities and users in other states if such service is already available in those communities via facilities provided by an established carrier. Because this proposed policy change would not impose any regulatory burden, we certify that it would not have a significant direct impact on a substantial number of small businesses. Anyone who believes that the proposal discussed in this NPRM requires additional RFA analysis may raise that contention in comments filed pursuant to the procedure specified in the next paragraph, labeling the discussion on point as "RFA Comments." The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy will also be published in the **Federal Register.** *See* 5 U.S.C. 605(b).

C. Deadlines and Instructions for Filing Comments

Members of the public may file comments on the Further Notice of Proposed Rulemaking. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 1, 2002, and reply comments are due on or before July 15, 2002. Comments may be filed using the Commission's electronic comment Filing System (ECFS) or be filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of

an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electric copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "et form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the filing. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capital Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested persons must file an original and four copies of all comments, reply comments, and supporting comments. Those who want each Commissioner to receive a personal copy of their comments should file an original plus nine copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Persons not filing via ECFS are encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Interested persons may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, send an e-mail to *ecfs@fcc.gov,* including the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

Those filing paper comments must submit an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, and Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. Comments are also available on the ECFS, at *https://gullfoss2.fcc.gov/cgi-bin/websql/prod/ecfs/comsrch_v2.hts.*

III. Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(f), 303(g), and 303(r), GCI's Petition for Rulemaking filed on January 10, 1990 *is granted* and this *Notice of Proposed Rulemaking is adopted.*

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–13298 Filed 5–29–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI51

Endangered and Threatened Wildlife and Plants; Listing of the Flat-Tailed Horned Lizard as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reinstated proposed rule; reopening of comment period and announcement of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). The reopened comment period will allow all interested parties to submit written comments on the proposal. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final determination. Additionally, we are announcing that public hearings will be held on the proposed listing determination. Because of budgetary constraints, we are only able to hold public hearings on June 19, 2002, as described below. We welcome all substantive comments and want to stress that written comments on the proposal are given equal consideration as verbal comments presented at the public hearings.

DATES: The original public comment period on the proposed listing determination closed on June 9, 1997, and the second comment period on the reinstated proposed listing determination closed on April 25, 2002. The public comment period is reopened, and we will accept comments until July 29, 2002. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The public hearings will be held on June 19, 2002, from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. in El Centro, California.

ADDRESSES: *Public Hearings:* The public hearings will be held at Southwest High School Performing Arts Theatre, 2001 Ocotillo Drive, El Centro, CA.

Comments: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status and distribution of

the species, as well as information pertaining to threats to the species or its habitat, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand delivery to Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, CA 92008.

2. You may send comments by electronic mail (e-mail) to fthl@r1.fws.gov. Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760/431–9440.

Document Availability: Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule and subsequent withdrawal, and additional information obtained since the withdrawal that will be used for this final determination are available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Branch Chief, Listing, or Sandy Vissman, Wildlife Biologist, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section; telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION: The flat-tailed horned lizard is a small, cryptically colored lizard that reaches a maximum adult body length (excluding the tail) of approximately 81 millimeters (3.2 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The upper surface of the flat-tailed horned lizard is pale gray to light rusty brown. The underside is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California and Arizona and in northern Mexico. The species inhabits desert areas of southern Riverside, eastern San Diego, and Imperial counties in California; southwestern Arizona; and adjacent regions of northwestern Sonora and northeastern Baja California Norte, Mexico. Within the United States, populations of the flat-tailed horned lizard are concentrated in portions of the Coachella Valley, Ocotillo Wells, Anza Borrego Desert, West Mesa, East Mesa, and the Yuma Desert in California; and the area between Yuma and the Gila Mountains in Arizona. The flat-tailed horned lizard occurs at elevations up to 520 meters (m) (1,700 feet (ft)) above sea level, but most populations are below 250 m (820 ft) elevation.

According to Hodges (1997), approximately 51.2 percent of the historic range of the flat-tailed horned lizard habitat within the United States remains. This remaining habitat includes an estimated 503,500 hectares (ha) (1,244,000 acres (ac)) of habitat in the United States, of which approximately 56,800 ha (140,300 ac) occur in Arizona and 446,670 ha (1,103,800 ac) occur in California. Within this range, the lizard typically occupies sparsely vegetated, sandy desert flatlands with low plant species diversity, but it is also found in areas with small pebbles or desert pavement, mud hills, dunes, alkali flats, and low, rocky mountains.

Based on information obtained since the withdrawal of the proposed listing rule and the information documented in the proposed rule itself, threats to the flat-tailed horned lizard may include one or more of the following: commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, military activities, introduction of nonnative plants, pesticide use, and border patrol activities along the United States-Mexico border.

In 1982, we first identified the flat-tailed horned lizard as a category 2 candidate species for listing under the Act (47 FR 58454). Service regulations defined category 2 candidate species as "taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules." In 1989, we elevated the species to category 1 status (54 FR 554). Category 1 included species "for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule." Subsequently, on November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species pursuant to the Act (58 FR 62624).

On May 16, 1997, in response to a lawsuit filed by the Defenders of Wildlife to compel us to make a final listing determination on the flat-tailed horned lizard, the United States District Court for the District of Arizona ordered us to issue a final listing decision within 60 days. A month after the District Court's order, several State and Federal agencies signed a Conservation Agreement (CA) implementing a recently completed range-wide management strategy to protect the flat-tailed horned lizard. Pursuant to the CA, cooperating parties agreed to take voluntary steps aimed at "reducing threats to the species, stabilizing the species' populations, and maintaining its ecosystem."

On July 15, 1997, we issued a final decision to withdraw the proposed rule to list the flat-tailed horned lizard as a threatened species (62 FR 37852). The withdrawal was based on three factors: (1) population trend data did not conclusively demonstrate significant population declines; (2) some of the threats to the flat-tailed horned lizard habitat had grown less serious since the proposed rule was issued; and (3) the belief that the recently approved "conservation agreement w[ould] ensure further reductions in threats."

Six months following our withdrawal of the proposed listing rule, the Defenders of Wildlife filed a lawsuit challenging our decision. On June 16, 1999, the United States District Court for the Southern District of California granted summary judgment in our favor upholding our decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter back to us for further consideration in accordance with the legal standards outlined in its opinion. On October 24, 2001, the District Court ordered us to reinstate the previously effective proposed listing rule within 60 calendar days and to make a final listing decision within 12 months of reinstating the proposed listing. On December 26, 2001, we published a notice announcing the reinstatement of the 1993 proposed listing of the flat-tailed horned lizard as threatened and the opening of a 120–day public comment period on the reinstated proposed rule (66 FR 66384).

This notice announces the reopening of the public comment period on this proposed rulemaking. The public comment period is being opened for 60 days to hold public hearings on the proposed listing of the flat-tailed horned

lizard as a threatened species, accept public comment on the reinstated proposed rule, and collect updated information concerning its ecology and distribution, threats, conservation/management actions, and any additional available information to assist us in making a final listing determination based on the best scientific and commercial data available.

We are specifically seeking information about the flat-tailed horned lizard and its habitat concerning: (1) threats to the species as a whole or to local populations and its habitat, (2) the size, number, and/or distribution of known populations, (3) sufficiency of current conservation/management and regulatory mechanisms for the flat-tailed horned lizard and its habitat, and (4) the conservation value of different populations across the range of the species.

Author

The primary author of this notice is Douglas Krofta, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 3, 2002.

Thomas O. Melius,

Acting Director, Fish and Wildlife Service.

[FR Doc. 02–13533 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 67, No. 104
Thursday, May 30, 2002

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. 02–059–1]

Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the control of yellow starthistle, *Centaurea solstitialis* (Asteraceae). The environmental assessment considers the effects of, and alternatives to, the release of a nonindigenous rust fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), into the environment for use as a biological control agent to reduce the severity of yellow starthistle infestations. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 1, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–059–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–059–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02–059–1" on the subject line.

You may read any comments that we receive on the environmental assessment 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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Divan, Plant Pathologist, PPD, APHIS, 4700 River Road Unit 135, Riverdale, MD 20737–1236; (301) 734–3367.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) is considering an application from the California Department of Food and Agriculture (CDFA) for a permit to release a nonindigenous rust fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), in California to reduce the severity of yellow starthistle (YST), *Centaurea solstitialis*, infestations.

YST is an exotic weed that has become one of California's worst pests since its introduction prior to 1860. Since then, it has spread steadily throughout California and other western States. YST infests rangelands, orchards, vineyards, pastures, parks, and natural areas. Uncontrolled, it dominates the local plant community. It is capable of invading undisturbed areas.

APHIS has completed an environmental assessment that considers the effects of, and alternatives to, releasing *P. jaceae* var. *solstitialis* into the environment as part of a biological control program to reduce the severity of YST infestations. There are currently several control methods for YST, including mowing, timed grazing, prescribed burns, and other methods. However, these approaches are very expensive, may damage the environment, and take several years to be effective. The United States Department of Agriculture's Agricultural Research Service and CDFA are cooperatively developing biological controls for YST. We anticipate that biological control will significantly reduce control costs and possibly permanently reduce the abundance and impact of YST.

APHIS' review and analysis of the potential environmental impacts associated with releasing this biological control agent into the environment are documented in detail in an environmental assessment entitled "Field Release of a Rust Fungus, *Puccinia jaceae* var. *solstitialis* (Urendinales), For Biological Control of Yellow Starthistle, *Centaurea solstitialis* (Asteraceae)" (April 2002). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive by the date listed under the heading **DATES** at the beginning of this notice.

You may request copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice.)

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 23rd day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–13530 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farmland Protection Program

AGENCY: Commodity Credit Corporation, Department of Agriculture (USDA).

ACTION: Notice of request for proposals.

SUMMARY: Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 established the Farmland Protection Program (FPP). The Secretary of Agriculture delegated the authority for FPP to the Chief of the Natural Resources Conservation Service (NRCS), who is a vice president of the Commodity Credit Corporation (CCC). Section 2503 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) amended the Food Security Act of 1985 to include FPP, providing up to $50 million in financial and technical assistance for the purposes described in FPP. The CCC requests proposals from federally recognized Indian tribes, States, units of local government, and nongovernmental organizations to cooperate in the acquisition of conservation easements or other interests in farms and ranches. Eligible land includes farm and ranch land that has prime, unique, or other productive soil, or that contains historical or archaeological resources. These lands must also be subject to a pending offer from eligible entities for the purpose of protecting topsoil by limiting conversion of that land to nonagricultural uses.

DATES: Proposals must be received in the NRCS State Office by July 15, 2002.

ADDRESSES: Written proposals should be sent to the appropriate NRCS State Conservationist, Natural Resources Conservation Service, USDA. The telephone numbers and addresses of the NRCS State Conservationists are in the appendix of this notice.

FOR FURTHER INFORMATION CONTACT: Douglas J. Lawrence, NRCS; phone: (202) 720–1510; fax: (202) 720–0745; or e-mail: *doug.lawrence@usda.gov;* Subject: FPP or consult the NRCS Web site at: *http://www.nrcs.usda.gov/programs/farmbill/2002/PubNotc.html.*

SUPPLEMENTARY INFORMATION:

Background

Urban sprawl continues to threaten the Nation's farmland. Social and economic changes over the past three decades have influenced the rate at which land is converted to non-agricultural uses. Population growth, demographic changes, preferences for larger lots, expansion of transportation systems, and economic prosperity have contributed to increases in agricultural land conversion rates.

The amount of farmland lost to development is not the only significant concern. Another cause for concern is the quality and pattern of farmland being converted. In most States, prime farmland is being converted at two to four times the rate of other, less-productive agricultural land.

There continues to be an important national interest in the protection of farmland. Land use devoted to agriculture provides an important contribution to environmental quality, protection of the Nation's historical and archaeological resources, and scenic beauty.

Availability of Funding

Effective on the publication date of this notice, the CCC announces the availability of up to $50 million for FPP, until September 30, 2002. The CCC, acting through the applicable NRCS State Conservationist, must receive proposals for participation within 45 days of the date of this notice. State, tribal, and local government entities and nongovernmental organizations may apply.

Selection will be based on the criteria established in this notice and additional criteria developed by the applicable State Conservationist. Selected eligible entities may receive no more than 50 percent of the appraised fair market value for each conservation easement from FPP. A landowner donation of up to 25 percent of the appraised fair market value of the conservation easement or other interest in land may be considered part of the entity's matching offer. Where a landowner's donation is considered to be part of an entity's matching offer, the entity is required to match the landowner's donation with 25 percent of the appraised fair market value of the easement or 50 percent of the purchase price. Pending offers by an eligible entity must be for acquiring an easement for perpetuity except where State law prohibits a permanent easement.

Definitions

For the purposes of this notice, the following definitions apply:

Chief means the Chief of NRCS, USDA.

Conservation plan means the document that—

- Applies to highly erodible cropland;
- Describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules; and
- Is approved by the local soil conservation district in consultation with the local communities established under section 8 (b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Natural Resources Conservation Service (NRCS) for purposes of compliance with 7 CFR Part 12.

Eligible entities means federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purpose of protecting agricultural use.

Eligible land is land on a farm or ranch that has prime, unique, statewide, or locally important soil, or contains historical or archaeological resources, and is subject to a pending offer by an eligible entity. Eligible land includes cropland, rangeland, grassland, pastureland, and incidental forest land that is an incidental part of an agricultural operation. Other incidental land that would not otherwise be eligible, but when considered as part of a pending offer, may be considered eligible if inclusion of such land would significantly augment protection of the associated eligible farmland.

Fair market value of the conservation easement is ascertained through standard real property appraisal methods. Fair market value is the amount in cash, for which in all probability the easement or other interest in land would have sold on the effective date of the appraisal, after a reasonable exposure of time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

Farmland that is of statewide or local importance is land used to produce food, feed, fiber, forage, or oilseed crops. The appropriate State or local government agency determines statewide or locally important farmland with concurrence from the Secretary.

Field Office Technical Guide (FOTG) contains the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Historic and archaeological resources are—

• Listed in the National Register of Historic Places established under the National Historic Preservation Act (NHPA), 16 U.S.C. 470, *et seq.*, or

• Formally determined eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and the Keeper of the National Register in accordance with Section 106 of the NHPA, or

• Formally listed in the State or Tribal Register of Historic Places of the SHPO that is designated under Section 101 (b)(1)(B) of the NHPA or the THPO that is designated under Section 101(d)(1)(C) of the NHPA.

Land Evaluation and Site Assessment (LESA) is the Federal land evaluation site assessment system used to rank land. The ranking is based on soil potential for agriculture, as well as social and economic factors, such as location, access to market, and adjacent land use.

Nongovernmental organization is any organization that—

• is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

• is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code;

• is described in section 509(a)(2) of that Code; or

• is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

Pending offer is a written bid, contract, commitment, or option extended to a landowner by one or more eligible entities to acquire a conservation easement or other interest in land for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer; pesticides, and labor, without intolerable soil erosion, as determined by the Secretary.

State conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, (Puerto Rico and the Virgin Islands) or the Pacific Basin Area (Guam, American Samoa, and the Commonwealth of the Northern Marianna Islands).

Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. Additional information on the definition of prime, unique, or other productive soil can be found in section 1540(c)(1) of the Farmland Protection Policy Act (Public Law 97–98) (7 U.S.C. 4201, *et seq.*) and 7 CFR part 658.

Overview of the Farmland Protection Program

The CCC will accept proposals submitted to the NRCS State Offices from eligible entities, including federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purposes of protecting topsoil by limiting nonagricultural use of the land and/or protecting historical and archaeological sites on farm and ranch lands. Reference information regarding the FPP can be found in the "Catalog of Federal Domestic Assistance #10.913."

All proposals must be submitted to the appropriate NRCS State Conservationist within 45 days of the date of this notice. The NRCS State Conservationist may consult with the State Technical Committee (established pursuant to 16 U.S.C. 3861) to evaluate the merits of the proposals.

The NRCS State Conservationist will review and evaluate the proposals based on State, Tribal or local government or nongovernmental organization eligibility, land eligibility, and the extent to which the proposal adheres to the objectives outlined in the NRCS State FPP plan. Proposals must provide adequate proof of a pending offer for the subject land. Adequate proof includes a written bid, contract, commitment, or option extended to a landowner. Pending offers based upon appraisals completed and signed by State-certified or licensed appraisers shall receive higher priority for FPP funding. Proposals submitted directly to the NRCS National Office will not be accepted and will be returned to the submitting entity.

Development of the State Farmland Protection Program Plan

Funding awards to participants will be based on National and State criteria. FPP will be available in those States for which an NRCS State Office submits a State FPP Plan to the NRCS National Office. At a minimum, the State FPP Plan contains the following:

• Acreage of prime and important farmland estimated to be protected;

• Acreage of prime and important farmland lost;

• Number or acreage of historic and archaeological sites estimated to be protected on farm or ranch lands;

• Degree of development pressure;

• Degree of leveraging guaranteed by cooperating entities;

• History of cooperating entities' commitments to conservation planning and implementing conservation practices;"

• Participating entities' histories of acquiring, managing, holding, and enforcing easements (including annual farmland protection expenditures, accomplishments, and staff);

• Amount of FPP funding requested; and

• Participating entities' estimated unfunded backlog of conservation easements on prime, unique, and important farmland acres.

At the State level, each State Conservationist will develop a State FPP Plan to submit to NRCS National Office every three years. State allocations may be adjusted every three years based on new State FPP plan submissions. This State FPP Plan may be completed in consultation with the State Technical Committee. The State FPP Plan shall include ranking considerations used by the State, including the above-mentioned National criteria and other State ranking criteria. The following examples of State ranking criteria may be used to evaluate and rank specific parcels, including but not limited to proximity to protected clusters, viability of the agricultural operations, parcel size, type of land use, maximum cost expended per acre, degree of leveraging by the entity. State ranking criteria will be developed on a State-by-State basis and will be available to interested participating entities before proposal submission. Interested entities should contact the State Conservationist located in their State for a complete listing of applicable National and State ranking criteria.

The National Office will allocate funds to States based on the information provided in the State FPP Plan. Within 30 days after the Request for Proposals has closed, the NRCS State

Conservationist may make awards to eligible entities based on the funds provided. Once selected, eligible entities must work with the appropriate NRCS State Conservationist to finalize and sign cooperative agreements, incorporating all FPP requirements.

The conveyance document (*e.g.*, conservation easement deed) used by the eligible entity must be reviewed and approved by the USDA Office of General Counsel before being recorded. Since title to the easement is held by an entity other than the United States, the conveyance document must contain a clause that all rights conveyed by the landowner under the document will become vested in the United States should the federally recognized Indian tribe, State, local government entity, or nongovernmental organization (*i.e.*, the participant(s)) abandon, fail to enforce, or attempt to terminate the conservation easement). As a condition for participation, all land in the easement shall be included in a conservation plan in accordance with 7 CFR part 12. The conservation plan shall be developed according to the NRCS Field Office Technical Guide and shall be implemented in a timely manner, as determined by the State Conservationist, following FPP enrollment.

Organization and Land Eligibility Selection Criteria

To be eligible, a federally recognized Indian tribe, State, unit of local government, or nongovernmental organization must have a farmland protection program that purchases agricultural conservation easements for the purpose of protecting prime, unique, or other productive soil or historical and archaeological resources by limiting conversion of farm or ranch land to nonagricultural uses.

Criteria for Proposal Evaluation

Proposals must contain the information set forth below in order to receive consideration for assistance:

1. Organization and programs: Eligible entities must describe their farmland protection program and their record of acquiring and holding permanent agricultural land protection easements or other interests. Information provided in the proposal should:

(a) Demonstrate a commitment to long-term conservation of agricultural lands through the use of voluntary easements or other interests in land that protect farmland from conversion to nonagricultural uses;

(b) Demonstrate the capability to acquire, manage, and enforce easements and other interests in land;

(c) Demonstrate the number and ability of staff that will be dedicated to monitoring easement stewardship;

(d) Demonstrate the availability of funds equal to at least 50 percent of the purchase of the conservation easement, not to exceed the appraised fair market value of the conservation easement, or when accompanied by a landowner donation, funds equal to or more than 25 percent of the appraised fair market value of the conservation easement; and

(e) Include pending offer(s). A pending offer is a written bid, contract, commitment, or option extended to a landowner by an eligible entity to acquire a conservation easement or other interest in land that limits nonagricultural uses of the land before the legal title to these rights has been conveyed. The primary purpose of the pending offers must be for protecting topsoil by limiting conversion to nonagricultural uses. Pending offers having appraisals completed and signed by State-certified appraisers will receive higher funding priority by the NRCS State Conservationist. Appraisals completed and signed by a State-certified or licensed appraiser must contain a disclosure statement by the appraiser. The disclosure statement should include as a minimum the following: The appraiser accepts full responsibility for the appraisal, the enclosed statements are true and unbiased, the value of the land is limited by stated assumptions only, the appraiser has no interest in the land, and the appraisal conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions, or another land valuation system used by the State, where the land transaction will occur, in purchasing real estate.

2. Lands to be acquired: The proposal must describe the lands to be acquired with assistance from FPP. Specifically, the proposal must include the following:

(a) A map showing the proposed protected area(s);

(b) The amount and source of funds currently available for each easement (or other interest) to be acquired;

(c) The criteria used to set the acquisition priorities; and

(d) A detailed description of the land parcel(s), including—

(i) The priority of the offer;

(ii) The name(s) of the landowner(s);

(iii) The address and location map(s) of the parcel(s);

(iv) The size of the parcel, in acres;

(v) The acres of the prime, unique, or statewide and locally important soil in the parcels;

(vi) The number or acreage of historical or archaeological sites, if any, proposed to be protected, and a brief description of the sites' significance;

(vii) A map showing the location of other protected parcels in relation to the land parcels proposed to be protected;

(viii) Estimated cost of the easement(s): The consideration to be paid to any landowners for the conveyance of any lands or interests in lands cannot be more than the fair market value of the land or interests conveyed, as determined by an appraiser licensed in the State.

(ix) An example of the cooperating entity's proposed easement deed used to prevent agricultural land conversion;

(x) Indication of the accessibility to markets;

(xi) Indication of an existing agricultural infrastructure, on- and off-farm, and other support system(s);

(xii) Statement regarding the level of threat from urban development;

(xiii) Other factors from an evaluation and assessment system used to set priorities. If the eligible entity used the LESA system or a similar land evaluation system as its tool, include the score(s) for the land parcels slated for acquisition;

(xiv) Other partners involved in acquisition of the easement and their estimated financial contribution; and

(xv) Other information that may be relevant as determined by the NRCS State Conservationist.

In submitting proposals, entities should indicate on the cover of the proposal whether they are a State, Tribal, local agency or a nongovernmental organization.

Ranking Considerations

When the NRCS State Office has assessed organization eligibility and the merits of each proposal, the NRCS State Conservationist will determine whether the farmland is eligible for financial assistance from FPP. NRCS will use the National and State criteria and/or a LESA system or similar system to evaluate the land and rank the parcels. NRCS will only consider enrolling eligible land in the program that is of sufficient size and has boundaries that allow for efficient management of the area. The land must have access to markets for its products and an infrastructure appropriate for agricultural production. NRCS will not enroll land in FPP that is owned in fee title by an agency of the United States, or land that is already subject to an easement or deed restriction that limits the conversion of the land to nonagricultural use. NRCS will not enroll otherwise eligible lands if NRCS

determines that the protection provided by the FPP would not be effective because of onsite or offsite conditions. For example, a proposal may nominate an agricultural parcel surrounded by a developed area or a parcel may contain hazardous materials. In addition, NRCS may learn that the local government's long-term plan or zoning regulations earmark the parcel for future development. The parcel's isolation from other farms and the local government's position, expressed in either its land use plan or zoning, may cause NRCS to determine that the use of FPP funds is not appropriate.

NRCS will place a priority on acquiring easements or other interests in lands that provide permanent protection from conversion to nonagricultural use. NRCS will place a higher priority on easements acquired by entities that have extensive experience in managing and enforcing easements. NRCS may place a higher priority on lands and locations that help create a large tract of protected area for viable agricultural production and that are under increasing urban development pressure. NRCS may place a higher priority on lands and locations that correlate with the efforts of Federal, State, Tribal, local, or nongovernmental organizations' efforts that have complementary farmland protection objectives (*e.g.*, open space or watershed and wildlife habitat protection). NRCS may place a higher priority on lands that provide special social, economic, and environmental benefits to the region. A higher priority may be given to certain geographic regions where the enrollment of particular lands may help achieve National, State, and regional goals and objectives, or enhance existing government or private conservation projects.

Cooperative Agreements

The CCC, through NRCS, will use a cooperative agreement with a selected eligible entity to document participation in FPP. The cooperative agreement will address, among other subjects—

(1) The interests in land to be acquired, including the form of the easements to be used and terms and conditions;

(2) the management and enforcement of the rights acquired;

(3) the role of NRCS;

(4) the responsibilities of the easement manager on lands acquired with FPP assistance; and

(5) other requirements deemed necessary by the CCC to protect the interests of the United States.

The cooperative agreement will also include an attachment listing the pending offers accepted in FPP, landowners' names, addresses, location map(s), and other relevant information. An example of a cooperative agreement may be obtained from the NRCS State Conservationist.

Signed in Washington, DC, on May 21, 2002.

Bruce I. Knight,

Vice President, Commodity Credit Corporation; and Chief, Natural Resources Conservation Service.

Appendix

NRCS State Conservationists

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Guam: Joan B. Perry, Director, Pacific Basin Area, Suite 301, FHB Building, 400 Route 8, Maite, G U 96927; phone: (671) 472–7490; fax: (671) 472–7288; *joan.perry@pb.usda.gov.*

Hawaii: Kenneth M. Kaneshiro, Room 4–118, 300 Ala Moana Boulevard, Post Office Box 50004, Honolulu, HI 96850–0002; phone: (808) 541–2600; fax: (808) 541–1335; *kaneshiro@hi.nrcs.usda.gov.*

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Illinois: William J. Gradle, 2118 W. Park Court, Champaign, IL 61821; phone: (217) 353–6600; fax: (217) 353–6676; *bill.gradle@il.usda.gov.*

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Kansas: Harold Klaege, 760 South Broadway, Salina, KS 67401–4642; phone: (785) 823–4565; fax: (785) 823–4540; *harold.klaege@ks.usda.gov.*

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Louisiana: Donald W. Gohmert, 3737 Government Street, Alexandria, LA 71302; phone: (318) 473–7751; fax: (318) 473–7626; *don.gohmert@la.usda.gov.*

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Michigan: Ronald C. Williams, Suite 250, 3001 Coolidge Road, East Lansing, MI 48823–6350; phone: (517) 324–5270; fax: (517) 324–5171; *ron.williams@mi.usda.gov.*

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–002N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809. It also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 2001, to May 31, 2002, and June 1, 2002, to May 31, 2003, seeks comments on standards currently under consideration and recommendations for new standards.

ADDRESSES: Submit any written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United States Manager for Codex, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700; (202) 205–7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Attachment* 2 to this notice.) Documents pertaining to Codex are accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net.* The U.S. Codex Office also maintains a web site at *http://www.fsis.usda.gov/OA/Codex/index.htm.*

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the

World Health Organization (WHO). Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of those standards listed in Attachment 1 that are under consideration by Codex, please contact the Codex delegate or the U.S. Codex Office. This notice also solicits public comments on those standards that are under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States' delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States' delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States' delegation activities to interested parties. This information will include the current status of each agenda item; the United States Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its web page, *http://www.fsis.usda.gov/OA/Codex*. Please visit the web page or notify the appropriate U.S. delegate or the Office of U.S. Codex Alimentarius, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, if you would like to access or receive information about specific committees.

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 2001 to May 31, 2002, and June 1, 2002 to May 31, 2003. In addition, the following attachments are included:

Attachment 2 List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).

Attachment 3 Timetable of Codex Sessions (June 2001 through June 2003).

Attachment 4 Definitions for the Purpose of Codex Alimentarius.

Attachment 5 Part 1—Uniform Procedure for the Elaboration of Codex Standards and Related Texts; Part 2—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts.

Attachment 6 Nature of Codex Standards.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page, located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience. For more information contact the Congressional and Public Affairs Office, at (202) 720–9113.

To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC on: May 24, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

Attachment 1: Sanitary and Phytosanitary Activities of Codex,

Codex Alimentarius Commission And Executive Committee

The Codex Alimentarius Commission will hold its Twenty-fifth Session June 30–July 5, 2003, in Rome, Italy. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, *ad hoc* Task Forces, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet in June 2002 and June 2003. It is composed of the chairperson, vice-chairpersons and seven members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific.

The Executive Committee at its Fiftieth Session, June 26–28, 2002, will consider matters arising from reports of Codex Committees including review of standards at step 5, requests for new work, and other items brought to its attention.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A veterinary drug is defined as any substance applied or administered to a food producing animal, such as meat or dairy animals, poultry, fish or bees, for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

A Codex Maximum Limit for Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is adopted by the Codex Alimentarius

Commission to be permitted or recognized as acceptable in or on a food. An MRLVD is based on the Acceptable Daily Intake (ADI)* and indicates the amount of residue in food that is considered to be without appreciable toxicological hazard. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

* Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

The following matters, contained in ALINORM 03/31, will be considered by the Codex Alimentarius Commission at its 25th Session in July 2003 or the Executive Committee at its 50th Session in June 2002.

To be considered at Step 8 by the 25th Session of the Commission:

- Abemectin
- Carazolol
- Chlortetracycline/oxytetracycline/tetracycline
- Clenbuterol
- Cyfluthrin
- Eprinomectrin
- Phoxim
- Porcine somatotropin

To be considered at Step 5/8 by the 25th Session of the Commission:

- Cyhalothrin
- Ivermectin
- Lincomycin

To be considered at Step 5 Accelerated Procedure by the 25th Session of the Commission:

- Draft amendments to the Glossary of Terms and Definitions

To be considered at Step 5 by the 50th Session of the Executive Committee:

- Clenbuterol
- Deltamethrin
- Dicyclanil
- Melengestrol acetate
- Trichlorfon (metrifinate)

The Committee will continue to work on:

- Proposed Draft Code of Practice to Minimize and Contain Antimicrobial Resistance
- Proposed Draft Revised Guidelines for the Establishment of a Regulatory Programme for Control of Veterinary Drug Residues in Foods
- Revised Discussion Paper on Residue Issues for the Codex Committee on Residues of Veterinary Drugs in Foods
- Risk Analysis Principles and Methodologies, including Risk Assessment Policies, in the Codex Committee on Residues of Veterinary Drugs in Foods
- Proposed Draft Appendix on the Prevention and Control of Veterinary Drug Residues in Milk and Milk Products
- Priority List of Veterinary Drugs Requiring Evaluation or Reevaluation
- Methods of Analysis and Sampling Issues
- Performance-based Criteria
- Identification of Routine Methods of Analysis

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) (a) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed; (b) prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); (c) recommends specifications of identity and purity for food additives for adoption by the Commission; (d) considers methods of analysis for food additives and contaminants; and (e) considers and elaborates standards and codes for related subjects such as labeling of food additives when sold as such and food irradiation. The following matters are under consideration by the Commission at its 25th Session in July 2003 or the Executive Committee at its 50th Session in June 2002. The relevant document is ALINORM 03/12.

Risk Analysis

The 34th CCFAC agreed to circulate the "Proposed Risk Assessment Policy Statement for the Application of Risk Analysis Principles to the Standard Setting Activities of the Codex Committee on Food Additives and Contaminants (CCFAC) in Conjunction with Risk Assessments Performed by the Joint FAO/WHO Expert Committee on Food Additives (JECFA)" for comments at Step 3 and further consideration at its next meeting. The CCFAC also agreed to inform the Codex Executive Committee and the Codex Committee on General Principles of this document. The Discussion Paper entitled "Application of Risk Analysis Principles to the Work of the Codex Committee on Food Additives and Contaminants (CCFAC) and the Joint FAO/WHO Expert Committee on Food Additives (JECFA)" will be revised and forwarded to the 59th Meeting of the JECFA (Geneva, June 2002) for review and comment.

Food Additives

To be considered at Step 8 by the 25th Session of the Codex Commission (July 2003):

- Codex General Standard for Food Additives: Draft Food Additive Provisions in Table 1
- Codex Advisory Specifications for the Identity and Purity of Food Additives

To be considered at Step 5/8 of the Accelerated Procedure by the 25th Session of the Codex Commission (July 2003):

- Draft Revisions to the Codex International Numbering System for Food Additives
- Proposed Draft Revisions to the Codex General Standard for Food Additives
- Proposed Draft Revision to the Recommended International Code of Practice for Radiation processing of Food

The Committee is continuing work on:

- General Standard for Food Additives: Food Category System
- General Standard for Food Additives: Draft Food Additive Provisions (in Table 1 and Table 3)
- General Standard for Food Additives: Revisions to the Preamble to the clarify relationship between the General Standard and food additive provisions in Codex Commodity Standards and to clarify the principles for establishing food additive provisions in the General Standard
- Proposed Draft Revision to the Codex Standard for Irradiated Foods
- International Numbering System
- Specifications for the Identity and Purity of Food Additives
- Discussion Paper on Processing Aids and Additives Used as Carriers for Other Additives
- Discussion Paper on the Use of Active Chlorine Compounds in Food Processing

Contaminants

To be considered at Step 8 by the 25th Session of the Codex Commission (July 2003):

- Codex General Standard for Contaminants and Toxins: Maximum Level for Patulin in Apple Juice and Apple Juice Ingredients in Other Beverages
- Codex General Standard for Contaminants and Toxins: Maximum Level for Ochratoxin A in Wheat, Barley, Rye and derived products

To be considered at Step 5 by the 50th Session of the Codex Executive Committee (June 2002):

- Proposed Draft Code of Practice for the Prevention of Mycotoxin Contamination in Cereals, including Annexes on Ochratoxin A, Zearalenone, Fumonisins, and Tricothecenes
- Proposed Draft Code of Practice for the Reduction of Patulin Contamination in Apple Juice and Apple Juice Ingredients

The Committee is continuing work on:

- Codex General Standard for Contaminants and Toxins: Proposed Draft Principles for Exposure Assessment of Contaminants and Toxins in Foods
- Codex General Standard for Contaminants and Toxins: Draft maximum levels for lead in fish
- Codex General Standard for Contaminants and Toxins: Maximum levels for lead in milk and milkfat
- Codex General Standard for Contaminants and Toxins: Proposed Draft Maximum Levels for Cadmium in fruit, wheat grain, milled rice, soybean and peanuts, meat of cattle, poultry, pig and sheep, horse meat, vegetables, peeled potatoes, stem and root vegetables, leafy vegetables, fresh herbs, fungi, celeriac, and mollusks
- Codex General Standard for Contaminants and Toxins: Proposed Draft Maximum Levels for Tin in liquid canned foods and solid canned foods
- Proposed Draft Code of Practice for Source Directed Measures to Reduce Dioxin and Dioxin-like PCB Contamination of Foods
- Discussion paper on Dioxins and Dioxin-like PCBs
- Position Paper on Chloropropanols

- Position Paper on Aflatoxin in Tree Nuts
- Discussion Paper on Deoxynivalenol

New Work:

- Proposed Draft Code of Practice for the Reduction of Aflatoxin Contamination in Tree Nuts
- Proposed Draft Code of Practice for the Prevention and Reduction of Lead in Food
- Discussion Paper on the Development of a Code of Practice for the Reduction of Aflatoxin Contamination in Peanuts

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or groups of food commodities. A Codex Maximum Residue Limit for Pesticide Residues (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg) recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices, and

(b) Toxicological assessment of the pesticide and its residue.

The following items will be considered by the Codex Commission at its 25th Session in July 2003. The relevant document is ALINORM 03/24.

To be considered at Step 8:

- Proposed Draft Amendments to the "Guidelines on Good Laboratory Practice in Pesticide Residue Analysis and the Introduction Section of the Recommended Methods of Analysis for Pesticide Residues"
- Draft and Draft Revised Maximum Residue Limits

To be considered at Step 5/8:

- Proposed Draft and Proposed Draft Revised Maximum Residue Limits

To be considered at Step 5 by the Executive Committee at its 50th Session June 2002:

- Proposed Draft and Proposed Draft Revised Maximum Residue Limits

The committee is continuing work on:

- Consideration of Draft and Proposed Draft Residue Limits in Foods and Feeds
- Paper on Trade Vulnerabilities Resulting from the Lengthy Codex MRL Process
- Paper on Cumulative Risk Assessment Methodology
- Paper on Acute Dietary Risk Assessment
- Revision of Regional Diets and Information on Processing
- Revision of the List of Recommended Methods of Analysis for Pesticide Residues
- Revision of the Codex Classification of Foods and Animal Feeds
- Revision of Codex Priority Lists of Pesticides for review by JMPR

* Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Responsible Agency: EPA, USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling:

(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;

(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;

(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;

(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;

(e) Elaborates sampling plans and procedures, as may be required;

(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and

(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The next session of the Committee will take place in Budapest, Hungary on November 18–22, 2002. The Committee will continue work on:

- Proposed Draft Guidelines on Measurement Uncertainly
- Proposed Draft Guidelines for Evaluating Acceptable Methods of Analysis
- Proposed Draft General Guidelines on Sampling
- Validation of Methods
- Single Laboratory Validation
- Use of Proficiency Testing Schemes
- Endorsement of Methods of Analysis and Sampling Provisions in Codex Standards

Responsible Agency: HHS/FDA, USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Certification and Inspection Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems is charged with developing principles and guidelines for food import and export inspection and certification systems to protect consumers and to facilitate trade. Additionally, the Committee develops principles and guidelines for the application of measures by competent authorities to provide assurance that foods comply with requirements, especially statutory health requirements. This encompasses work on: equivalence of food inspection systems including equivalence agreements, processes and procedures to ensure that sanitary measures are implemented; guidelines on food import control systems; and guidelines on food product certification and information exchange. The development of guidelines for the appropriate utilization of quality assurance systems to ensure that foodstuffs conform to requirements and to facilitate trade also are included in the Committee's terms of reference.

The following guidelines, found in ALINORM 03/30, will be considered for adoption by the Codex Alimentarius Commission at its 25th Session in July 2003.

To be considered at Step 8:

- Draft Guidelines for Food Import Control Systems

The committee is continuing work on:

- Draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems
- Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems to Meet Requirements in Relation to Food.
- Proposed Revised Draft Guidelines for the Exchange of Information in Food Control Emergency Systems
- Discussion paper to examine the need for elaboration of Proposed Draft Guidelines on the Judgement of Equivalence of Technical Regulations Associated with Food Inspection and Certification Systems
- Discussion paper on traceability in the context of inspection and certification systems

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on General Principles

The Codex Committee on General Principles deals with procedure and general matters as are referred to it by the Codex Alimentarius Commission. The 17th Session of the Committee met in Paris, France, on April 15–19, 2002. The following will be considered by the 50th Session of the Executive Committee in June 2002. The relevant document is ALINORM 03/33, Appendix II.

To be considered at Step 5 by the 50th Session of the Executive Committee:

• Proposed Draft Working Principles for Risk Analysis for Application within the Framework of Codex, at Step 5

The Committee continues to work on:

• Proposed Draft Working Principles for Risk Analysis as Guidance to National Governments, with consideration of traceability as a risk management option

• Proposed Draft Revised Code of Ethics for International Trade in Foods

• Guidelines for Cooperation with International Intergovernmental Organizations

• Membership in the Codex Alimentarius Commission of Regional Economic Integration Organizations

Responsible Agency: USDA/FSIS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling issues assigned by the Codex Alimentarius Commission. The Committee held its Thirtieth Session in Halifax, Canada on May 6–10, 2001. It considered the following items:

• Draft Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods Proposed Revised Sections: Section 5—Criteria and Annex 2—Permitted Substances

• Draft Amendment to the General Standard for the Labelling of Prepackaged Foods—(Draft Recommendations for the Labelling of Foods Obtained through Certain Techniques of Genetic Modification/Genetic Engineering) Section 4.2.2 (allergenicity) and Section 2. (Definitions)

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods (Class Names) (milk protein/milk protein products)

• Proposed Draft Amendment to the Guidelines on Nutrition Labelling

• Proposed Draft Recommendations for the Use of Health Claims: Proposed Draft Guidelines for the use of Nutrition and Health Claims

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods: Quantitative Declaration of Ingredients

• Discussion paper on Misleading Claims

• Discussion paper on Country of Origin Labelling

Responsible Agency: HHS/FDA, USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene drafts basic provisions on food hygiene applicable to all food. The Committee suggests and prioritizes areas where there is a need for microbiological risk assessment at the international level and considers microbiological risk management matters in relation to food hygiene and in relation to the risk assessment activities of FAO and WHO. The Committee considers, amends if necessary, and endorses food hygiene provisions that are incorporated into specific Codex commodity standards by the Codex commodity committees. The Committee provides such other general guidance to the Commission on matters relating to food hygiene as may be necessary.

The following item will be considered by the Codex Alimentarius Commission at its 25th Session in July 2003. The relevant document is ALINORM 03/13.

To be considered at Step 8:

• Draft Code of Hygienic Practice for Fresh Fruits and Vegetables

The following will be considered at Step 5 by the Executive Committee

• Proposed Draft Revised Guidelines for the Application of HACCP System

The committee continues to work on:

• Proposed Draft Code of Hygienic Practice for Milk and Milk Products

• Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management

• Proposed Draft Guidelines for the Control of *Listeria monocytogenes* in Foods

• Proposed Draft Guidelines for Validation of Food Hygienic Control Measures

• Proposed Draft Revision of the Code of Hygienic Practice for Eggs and Egg Products

• Discussion paper on Risk Management Strategies for *Salmonella* spp. in Poultry

• Discussion paper on Risk Management Strategies for *Campylobacter* spp. in Poultry

• Discussion paper on Risk Management Strategies for *Vibrio* spp. in finfish and shellfish.

• Risk Profile for Enterohemorrhagic *E. coli* Including the Identification of Commodities of Concern, including Sprouts, Ground Beef and Pork

Responsible Agency: HHS/FDA, FSIS/USDA.

U.S. Participation: Yes.

Codex Committee on Fresh Fruits And Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating world-wide standards and codes of practice for fresh fruits and vegetables. The next session of the Committee will be held June 10–14, 2002 in Mexico City, Mexico.

The committee is continuing work on:

• Draft Standard for Cassava

• Draft Standard for Yellow Pitahaya

• Draft Standard for Oranges including Guide for Use in Scoring Freezing Injury

• Sizing sections of the grapefruit, lime and pummelo standards.

• Proposed Draft Standard for Tomatoes

• Proposed Draft Standard for Table Grapes

• Proposed Draft Standard for Apples

• Proposed Draft Guide for the Quality Control of Fresh Fruits and Vegetables

• Discussion paper on definitions of terms

Responsible Agency: USDA/AMS.

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses.

The committee continues work on:

• Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children

• Proposed Draft Revised Standard for Infant Formula

• Proposed Draft Guidelines for Vitamin and Mineral Supplements

• Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Children

When new scientific information becomes available, the committee plans to resume work on:

• Discussion Paper on Energy Conversion Factors

• Guidelines for Use of Nutrition Claims—Draft Table of Conditions for Nutrient Contents Claims (Part B containing Provisions on Dietary Fibre)

• Proposed Draft Revised Standards for Gluten-Free Foods

Responsible Agency: HHS/FDA.

U.S. Participation: YES.

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh, frozen and otherwise processed fish, crustaceans and mollusks. The Committee will hold its 25th Session on June 3–7, 2002 in Alesund, Norway. The Committee is working on these standards and codes of practice:

• Inclusion of additional species (Proposed Draft Amendment to the Canned Sardines Standard)

• Proposed Draft Standard for Salted Atlantic Herring and Salted Sprats

• Proposed Draft Code of Practice for Fish and Fishery Products

• Draft Standard for Dried Salted Anchovies

• Proposed Draft Standard for Smoked Fish

• Proposed Draft Standard for Molluscan Shellfish

• Proposed Draft Model Certificate for Fish and Fishery Products

• Proposed Draft Standard for Live, Quick Frozen and Canned Bivalve Molluscs

• Proposed Draft Amendment to the Standard for Quick Frozen Lobsters

• Fish Content Definition and its Method of Determination

• Proposed Draft Standard for Scallops

Responsible Agency: HHS/FDA, USDC/NOAA/NMFS.

U.S. Participation: Yes.

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following will be considered by the 25th Session of the Commission when it meets in June 2003. The relevant document is ALINORM 03/11.

To be considered at Step 8:

• Proposed Draft Revised Standard for Cream and Prepared Creams

• Proposed Draft Revised Standard for Fermented Milks

• Proposed Draft Revised Standard for Whey Powders

• Proposed Draft Amendment to the Codex General Standard for Cheese (Appendix on cheese rind, surface, and coating)

The following will be considered by the 50th Session of the Executive Committee when it meets in June 2002:

To be considered at Step 5:

• Proposed Draft Standard for Products in Which Milk Components are Substituted by Non-Milk Components

• Evaporated Skimmed Milk with Vegetable Fat

• Sweetened Condensed Skimmed Milk with Vegetable Fat

• Skimmed Milk Powder with Vegetable Fat

• Proposed Draft Amendment to Section 3.3 (Composition) of the Codex General Standard for Cheese

To be considered as new work:

• Proposed Draft Model Export Certificate for Milk and Milk Products

The Committee continues work on:

• Methods of Analysis and Sampling for Milk Products

• Draft Revised Standards for Individual Cheeses

• Draft Revised Standard for Processed Cheese

• Draft Revised Standard for Dairy Spreads

• Proposals for new standards: Parmesan, Cheese Specialties

Responsible Agency: USDA/AMS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin. The Committee will hold its 18th Session in London in February 2003.

To be considered by the Committee at its next session:

• Draft Standard for Olive Oils and Olive-Pomace Oils

• Proposed Draft Amendments to the Standard for Named Vegetable Oils

• Super palm olein

• Mid-oleic sunflower oil

• Inclusion of new desmethysterol data and tocopherol and tocotrienol data for palm olien, palm stearin, rapeseed oil (high erucic acid) and mustard oil

• Inclusion of new data on Table 3 expressed in mg/kg

• Draft Standard for Fat Spreads

• Proposed Draft Amendments to the List of Acceptable Previous Cargoes and of Banned Immediate Previous Cargoes

Responsible Agency: HHS/FDA, USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate is responsible for elaborating world-wide standards for cocoa products and chocolate. The following standard will be considered by the 25th Session of the Commission in June 2003. The relevant document is ALINORM 03/14.

To be considered at Step 8:

• Draft Revised Standard for Chocolate and Chocolate Products

The Committee agreed to adjourn *sine die* as it had completed its program of work.

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables is responsible for elaborating standards for processed fruits and vegetables. The Twenty-first Session of the Committee will be hosted by the United States in September 2002.

To be considered at step 7:

• Draft Standard for Canned Stone Fruit

• Draft Standard for Canned Pickled Products

• Draft Standard for Canned Bamboo Shoots

• Draft Standard for Aqueous Coconut Products

• Draft Codex Guidelines for Packing Media for Canned Fruits

To be considered at step 4:

• Proposed Draft Standard for Canned Citrus Fruits

• Proposed Draft Revised Standard for Canned Tomatoes

• Proposed Draft Revised Standard for Processed Tomato Concentrates

• Proposed Draft Standard for Canned Vegetables

• Proposed Draft Standard for Jams, Jellies, and Marmalades

• Proposed Draft Standard for Soy Sauce

• Proposed Draft Standard for Ginseng

• Proposed Draft Guidelines for Packing Media for Canned Vegetables.

The Committee will also discuss:

• Proposed Draft Codex Guidelines for the Processing and Handling of Quick Frozen Foods

Responsible Agency: USDA/AMS, HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Meat and Poultry Hygiene

The 24th Session of the Commission decided to reactivate the Codex Committee on Meat Hygiene and agreed to rename it the Codex Committee on Meat and Poultry Hygiene with New Zealand as Host Government. The Terms of Reference were amended to reflect the inclusion of poultry in its mandate. The reconstituted committee held its 8th Session in Wellington, New Zealand on February 18–22, 2002. The following, contained in ALINORM 03/16, will be considered by the Executive Committee at its 50th Session in June 2002.

To be considered at Step 5:

• Proposed Draft General Principles of Meat Hygiene

Requested the Commission to change the name back to the Codex Committee on Meat Hygiene.

The Committee continues to work on:

• Proposed Draft Code of Hygienic Practice for Fresh Meat

• Discussion paper on hygiene provisions for processed meat

• Discussion paper on principles and guidelines for establishing risk based ante- and post-mortem inspection systems for particular slaughter populations

• Discussion paper on principles and guidelines on systems for microbiological process control for meat

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Certain Codex Commodity Committees [1]

Several Codex Alimentarius Commodity Committees have adjourned *sine die*. The following Committees fall into this category:

• *Cereals, Pulses and Legumes*

Responsible Agency: HHS/FDA, USDA/GIPSA.

U.S. Participation: Yes.

• *Natural Mineral Water*

Responsible Agency: HHS/FDA.

U.S. Participation: Yes.

• *Sugars*

Responsible Agency: USDA/ARS; HHS/FDA.

U.S. Participation: Yes.

• *Vegetable Proteins*

Responsible Agency: USDA/ARS, HHS/FDA.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

The Commission, at its 23rd Session, established this task force to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health of consumers and the promotion of fair trade practices.

The following, contained in ALINORM 03/34, will be considered by the Codex Alimentarius Commission at its 25th Session in June 2003.

To be considered at Step 8:

• Draft General Principles for the Risk Analysis of Foods Derived from Modern Biotechnology

• Draft Guideline for the Conduct of Safety Assessment of Foods Derived from Recombinant-DNA Plants

To be considered by the Executive Committee in June 2002 at Step 5:

• Proposed Draft Guidelines for the Conduct of Food Safety Assessment of Recombinant-DNA Microorganisms

The Task Force will continue to:

• Discuss traceback/traceability

Responsible Agency: HHS/FDA, USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Animal Feeding

The Commission at its 23rd Session established the *ad hoc* Intergovernmental Task Force on Animal Feeding to develop guidelines or standards as appropriate on good animal feeding practices. An Interim Report of the work of the Task Force, as required under its Terms of Reference, was presented to the 24th Commission by Denmark, the host government. The Task Force will hold its 3rd Session on June 17–20, 2002 and continue discussing:

[1] Adjourned sine die. The main tasks of these Committee are completed. However, the committees may be called to meet again if required

• Revised Draft Code of Practice for Good Animal Feeding

Responsible Agency: HHS/FDA, USDA/APHIS.

U.S. Participation: Yes.

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

The Commission at its 23rd Session established this Task Force to revise and consolidate the existing Codex standards and guidelines for fruit and vegetable juices and related products, giving preference to general standards. These standards were originally developed by the Joint UNECE/Codex Group of Experts on the Standardization of Fruit Juices, which had been abolished by its parent organizations. The Task Force held its second session in Rio de Janeiro, Brazil, on April 23–26, 2002. The reference document is ALINORM 03/39.

The committee is discussing:

• Proposed Draft Codex General Standard for Fruit Juices and Nectars

• Proposed Draft Revised Codex General Standard for Vegetable Juices

• Methods of Analysis and Sampling for Fruit and Vegetable Juices and Nectars

Responsible Agency: HHS/FDA, USDA/AMS.

U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 30 subsidiary bodies. Included in these subsidiary bodies are coordinating committees for groups of countries located in proximity to each other who share common concerns. There are currently six Regional Coordinating Committees:

• Coordinating Committee for Africa

• Coordinating Committee for Asia

• Coordinating Committee for Europe

• Coordinating Committee for Latin America and the Caribbean

• Coordinating Committee for the Near East

• Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings. Each regional committee:

• Defines the problems and needs of the region concerning food standards and food control;

• Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;

• Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and

• Exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South-West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the region. The Seventh Session of the Committee will be hosted by Canada October 29–November 1, 2002. Work priorities include the following ongoing and new areas of work:

• Changes to food regulatory systems and food laws;

• Policy-related issues including the areas of biotechnology, anti-microbial resistance, animal feeding and improving the effectiveness of Codex responses in meeting the needs of its members;

• Issues facing small and less developed businesses;

• Ongoing capacity building and monitoring compliance within developing countries;

• The responses by relevant Codex Committees to the public health and trade vulnerability issues resulting from the lengthy Codex MRL setting process.

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Attachment 2

U.S. Codex Alimentarius Officials

Codex Committee Chairpersons

Codex Committee on Food Hygiene

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Codex Committee on Processed Fruits and Vegetables

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Codex Committee on Residues of Veterinary Drugs in Foods

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Codex Committee on Cereals, Pulses and Legumes (adjourned *sine die*)

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Listing of U.S. Delegates and Alternates Worldwide General Subject Codex Committees

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Codex Committee on Pesticide Residues (Host Government—The Netherlands)

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Codex Committee on Methods of Analysis and Sampling, (Host Government—Hungary)

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Codex Committee on Food Import and Export Certification and Inspection Systems, (Host Government—Australia)

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Codex Committee on Generol Principles, (Host Government—Fronce)

Delegote

Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Food Labeling, (Host Government—Canoda),

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Codex Committee on Food Hygiene (Host Government—United Stotes)

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Worldwide Commodity Codex Committees,

Codex Committee on Fresh Fruits and Vegetobles, (Host Government—Mexico)

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Alternate Delegate

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Codex Committee on Cereals, Pulses and Legumes, (Host Government—United States),

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Codex Committee on Natural Mineral Waters (Host Government—Switzerland)

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Ad Hoc Intergovernmental Task Forces

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices (Host government—Brazil)

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Ad Hoc Intergovernmental Task Force on Foods Derived from Biotechnology (Host government—Japan)

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Ad Hoc Intergovernmental Task Group on Animal Feeding (Host government—Denmark)

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There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North American and the South-West Pacific

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Attachment 3

Timetable of Codex Sessions

(June 2001 through June 2003)

2001:			
CX 702–48	Executive Committee of the Codex Alimentarius Commission (48th Session).	28–29 June	Geneva.
CX 701–24	Codex Alimentarius Committee (24th Session) ..	2–7 July	Geneva.
CX 702–49	Executive Committee of the Codex Alimentarius Commission (49th Extraordinary Session).	26–27 September	Geneva.
CX 708–19	Codex Committee on Cocoa Products and Chocolate (19th Session).	3–5 October	Fribourg.
CX 712–34	Codex Committee on Food Hygiene (34th Session).	15–20 October	Bangkok.

CX 720–23	Codex Committee for Nutrition and Foods for Special Dietary Uses (23rd Session).	26–30 November	Berlin.
CX 730–13	Codex Committee on Residue of Veterinary Drugs in Foods (13th Session).	4–7 December	Charleston, SC.
2002:			
CX 723–8	Codex Committee on Meat Hygiene (8th Session).	18–22 February	Wellington.
CX 733–10	Codex Committee on Food Import and Export Certification and Inspection Systems (10th Session).	25 February-1 March	Brisbane.
CX 802–03	*ad hoc* Intergovernmental Task Force on Biotechnology (3rd Session).	4–8 February	Yokohama.
CX 711–34	Codex Committee on Food Additives and Contaminants (34th Session).	11–15 March	Rotterdam.
CX 703–5	Codex Committee on Milk and Milk Products (5th Session).	8–12 April	Wellington.
CX 716–17	Codex Committee on General Principles (17th Session).	15–19 April	Paris.
CX 801–2	*ad hoc* Intergovernmental Task Force on Fruit Juice (2nd Session).	23–26 April	Rio de Janeiro.
CX 714–30	Codex Committee on Food Labelling (30th Session).	6–10 May	Halifax.
CX 718–34	Codex Committee on Pesticide Residues (34th Session).	13–18 May	The Hague.
CX 722–25	Codex Committee on Fish and Fishery Products (25th Session).	3–7 June	Alesund.
CX 731–10	Codex Committee on Fresh Fruits and Vegetables (10th Session).	10–14 June	Mexico City.
CX 803–03	*ad hoc* Intergovernmental Task Force on Animal Feeding (3rd Session).	17–20 June	Copenhagen.
CX 702–50	Executive Commission of the Codex Alimentarius Commission (50th Session).	26–28 June	Rome.
CX 706–23	FAO/WHO (Codex) Regional Coordinating Committee for Europe (23rd Session).	10–13 September	Bratislava.
CX 727–13	FAO/WHO (Codex) Regional Coordinating Committee for Asia (13th Session).	17–20 September	Kuala Lumpur.
CX 713–21	Codex Committee on Processed Fruits and Vegetables (21st Session).	23–27 September	San Antonio, TX.
CX 712–35	Codex Committee on Food Hygiene (35th Session).	21–26 October	Washington, DC.
CX 732–7	FAO/WHO (Codex) Regional Coordinating Committee for North America and the South-West Pacific (7th Session).	29 October-1 November	Canada.
CX 720–24	Codex Committee on Nutrition and Foods for Special Dietary Uses (24th Session).	4–8 November	Berlin.
2003:			
CX 734–3	FAO/WHO (Codex) Regional Coordinating Committee for the Near East (2nd Session).	20–23 January	Cairo.
CX 709–18	Codex Committee on Fats and Oils (18th Session).	3–7 February	London.
CX 723–9	Codex Committee on Meat Hygiene (9th Session).	17–21 February	Wellington.
CX 730–14	Codex Committee on Residues of Veterinary Drugs in Foods (14th Session).	4–7 March	TBA.
CX 802–4	*ad hoc* Intergovernmental Task Force on Biotechnology (4th Session).	10–14 March	Yokohama.
CX 711–35	Codex Committee on Food Additives and Contaminants (35th Session).	17–21 March	The Hague.
CX 803–4	*ad hoc* Intergovernmental Task Force on Animal Feeding (4th Session).	24–26 March	Copenhagen.
CX 718–35	Codex Committee on Pesticide Residues (35th Session).	31 March-4 April	The Hague.
CX 716–18	Codex Committee on General Principles (18th Session).	7–11 April	Paris.
CX 714–31	Codex Committee on Food Labelling (31st Session).	28 April-2 May	Ottawa.
CX 801–3	*ad hoc* Intergovernmental Task Force on Fruit and Vegetable Juices (3rd Session).	6–9 May	Brasilia.
CX 702–51	Executive Committee of the Codex Alimentarius Commission (51st Session).	26–27 June	Rome.
CX 701–25	Codex Alimentarius Commission (25th Session)	30 June-5 July	Rome.

Attachment 4

Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before of after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner that leaves a residue, which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) toxological assessment of the pesticide and its residue, and

(b) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or (µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD)is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Definitions of Risk Analysis Terms Related to Food Safety

Hazard: A biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

Risk: A function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard(s) in food.

Risk analysis: A process consisting of three components: risk assessment, risk management and risk communication.

Risk assessment: A scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization.

Hazard identification: The identification of biological, chemical, and physical agents capable of causing adverse health effects and which may be present in a particular food or group of foods.

Hazard characterization: The qualitative and/or quantitative evaluation of the nature of the adverse health effects associated with biological, chemical and physical agents that may be present in food. For chemical agents, a dose-response assessment should be performed. For biological or physical agents, a dose-response assessment should be performed if the data are obtainable.

Dose-response assessment: The determination of the relationship between the magnitude of exposure (dose) to a chemical, biological or physical agent and the severity and/or frequency of associated adverse health effects (response).

Exposure assessment: The qualitative and/or quantitative evaluation of the likely intake of biological, chemical, and physical agents via food as well as exposures from other sources if relevant.

Risk characterization: The qualitative and/or quantitative estimation, including attendant uncertainties, of the probability of occurrence and severity of known or potential adverse health effects in a given

population based on hazard identification, hazard characterization and exposure assessment.

Risk management: The process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.

Risk communication: The interactive exchange of information and opinions throughout the risk analysis process concerning risk, related risk factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions.

Attachment 5

Part 1

Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies," to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Part 2

Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the "Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies", shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Attachment 6

Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format for Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also

indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definitions are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors that are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on page 84 of the Codex Procedural Manual and may take the following form:

"The following provisions in respect of food additives and their specifications as contained in section. * * * .of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.: "*Name of additive, maximum level* (in percentage or mg/kg)."

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

"The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants."

A tabulation should then follow, viz.: "*Name of contaminant, maximum level* (in percentage or mg/kg)."

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given in the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

"The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene."

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, e.g., where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given in the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

"The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling."

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given in the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternatives and included in this section either specifically or by reference. The following statement should also appear:

"The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling."

[FR Doc. 02–13527 Filed 5–29–02; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–022N]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, of the U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), and the U.S. Department of Health and Human Services (HHS) are sponsoring a public meeting on July 30, 2002. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States' positions that will be discussed at the 24th Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) to be held in Berlin, Germany, November 4–8, 2002. The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the

opportunity to obtain background information on the 24th Session of CCNFSDU and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, July 30, 2002 from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Auditorium (1A003), Food and Drug Administration, Harvey Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD. To receive copies of the Codex documents pertaining to the agenda items for the 24th CCNFSDU session, contact the Food Safety Inspection Service (FSIS) Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also become accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net*. If you would like to submit comments on one or more agenda items, please send them, in triplicate, to the FSIS Docket Room and reference Docket #02–022N. The U.S. Delegate to the CCNFSDU, Dr. Elizabeth Yetley of the Food and Drug Administration, also invites U.S. interested parties to submit their comments electronically to the following e-mail address (*ncrane@cfsan.fda.gov*). All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

To gain admittance to this meeting, individuals must present a photo ID for identification and are required to pre-register. In addition, no cameras or videotaping equipment will be permitted in the meeting room. To pre-register, please send the following information to this e-mail address (*ncrane@cfsan.fda.gov*) by July 15, 2002:

—Your Name
—Organization
—Mailing Address
—Phone number
—E-mail address

FOR FURTHER INFORMATION CONTACT: Ellen Matten, Staff Officer, U.S. Codex Office, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, Telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Matten at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations' organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Nutrition and Foods for Special Dietary Uses was established to study specific nutritional problems assigned to it by the Commission and advise the Commission on general nutritional issues; to draft general provisions, as appropriate, concerning the nutritional aspects of all foods; to develop standards, guidelines, or related texts for foods for special dietary uses, in cooperation with other committees when necessary; and to consider, amend if necessary, and endorse provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines and related texts. The committee is hosted by the Federal Republic of Germany.

Issues To Be Discussed at the Public Meeting

The following items will be on the Agenda for the 24th Session of the Committee:

- Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children
- Proposed Draft Revised Standard for Infant Formula
- Proposed Draft Guidelines for Vitamin and Mineral Supplements
- Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Young Children (CAC/GL 10–1979)

In addition, one or more of the following items may be on the Agenda, depending on whether the Committee has received additional scientific information:

- Guidelines for Use of Nutrition Claims: Draft Table of Conditions for Nutrient Contents (Part B, containing provisions on Dietary Fibre)
- Discussion Paper on Energy Conversion Factors
- Draft Revised Standard for Gluten-Free Foods

Note: The provisional agenda for the 24th CCNFSDU session will be posted on the World Wide Web in advance of the meeting at the following address: *http://www.codexalimentarius.net*.

Public Meeting

At the July 30th public meeting, the issues and draft United States positions on the issues will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). In addition, they may be sent electronically to the U.S. Delegate (see **ADDRESSES**). Please state that your comments relate to CCNFSDU activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm*. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC on: May 24, 2002.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 02–13526 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn/Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Glenn/Colusa County Resource Advisory Committee (RAC) will hold a meeting.

DATES: The meeting will be held on June 24, 2002, and will begin at 1:30 p.m. until approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the Mendocino National Forest Supervisor's Office, 825 N. Humboldt Ave., Willows, CA.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968-5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Approve the Minutes from Last Meeting, (2) Operating Guidelines/Possible Action, (3) Project Selection Criteria/ Possible Action, (4) Review By-Laws/ Possible Action, (5) Further Review of Ford Hill Project Proposal, (6) Public Comment, (7) Next Agenda.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 23, 2002.

James F. Giachino,

Designated Federal Officer.

[FR Doc. 02–13450 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Public Law 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, June 17, 2002. The Madera Resource Advisory Committee will meet at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA, 93644. The purpose of the meeting is to review current project proposal applications.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, June 17, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Yosemite Sierra Visitor Bureau, 40637 Highway 41, Oakhurst, CA, 93644.

FOR FURTHER INFORMATION CONTACT: Dave Martin, U.S.D.A., Sierra National Forest, 57003, Road 225, North Fork, CA, 93643 (559) 877–2218 ext. 3100; e-mail: *dmartin05@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) review current project proposal applications, (2) public comments. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 22, 2002.

David W. Martin,

District Ranger.

[FR Doc. 02–13451 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on June 17, 2002, in Downieville, California. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held June 17, 2002 from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Downieville Community Hall, Downieville, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA, 95959, (530) 478–6205, EMAIL: *awestling@fs.fed.us*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and announcements; (2) National Forest Fuels Reduction Priorities; and (3) Review of RAC project criteria and the process for project submittal and public notification. The meeting is open to the public and the public will have an opportunity to comment at the meeting.

Dated: May 23, 2002.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 02–13606 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes in the National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: Notice is hereby given of the intention of the Natural Resources Conservation Service (NRCS) to issue a series of new or revised conservation practice standards in its National Handbook of Conservation Practices. These standards include: Animal Trails and Walkways; Channel Bank Vegetation; Clearing and Snagging; Dike; Residue Management, Ridge Till; Residue Management, Seasonal; Row Arrangement. These standards are used to convey national guidance in developing Field Office Technical Guide Standards used in the States and the Pacific Basin and Caribbean Areas. NRCS State Conservationists and Directors for the Pacific Basin and Caribbean Areas, who choose to adopt these practices for use within their States/Areas; will incorporate them into Section IV of their Field Office Technical Guide. These practices may be used in resource management systems that treat highly erodible land, or on land determined to be wetland.

DATES: Comments will be received for a 30-day period, starting on the date of this publication. This series of new or revised conservation practice standards will be adopted after the close of the 30-day period.

FOR FURTHER INFORMATION CONTACT: Single copies of these standards are available from NRCS–CED in Washington, DC. Submit individual inquiries and return any comments in writing to William Hughey, National Agricultural Engineer, Natural Resources Conservation Service, Post

Office Box 2890, Room 6139–S, Washington, DC 20013–2890. Telephone number: (202) 720–5023. The standards are also available, and can be downloaded from the Internet, at: http://www.ftw.nrcs.usda.gov/practice_stds.html.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996, requires NRCS to make available for public review and comment proposed revisions to conservation practice standards used to carry out the highly erodible land and wetland provisions of the law. For the next 30 days, NRCS will receive comments on the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of change will be made.

Signed in Washington, DC, on May 13, 2002.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 02–13429 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from RUS to finance the construction of a 230 kV electric transmission line in Colquitt, Brooks, and Lowndes Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, fax (202) 720–0820, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Georgia Transmission Corporation proposes to construct approximately 37.5 miles of 230 kV transmission line from Georgia Power Company's East Moultrie Substation to Georgia Power Company's West Valdosta Substation. The East Moultrie Substation is located northeast of Moultrie approximately ¾ miles west of the intersection of State Road 35 and J.O. Stewart Road. The West Valdosta Substation is located on Snake Nation Road west of Valdosta approximately 0.4 miles west of the intersection of Snake Nation Road and Shiloh Road (County Road 775). The transmission line will traverse through southwestern Colquitt County, Georgia, the northeast corner of Brooks County, Georgia, and western Lowndes County, Georgia. Single pole and H-frame structures will be used to support the transmission line conductors and shield wires. Where single pole structures are used, the width of the right-of-way will be 100 feet. Normally, where the proposed right-of-way parallels a road, the centerline will be located approximately 9 feet outside the road right-of-way and the transmission line easement will extend another 50 feet. Where H-frame structures are used, primarily to cross large center-pivot irrigation systems, the width of the right-of-way will be 125 feet. Approximately 286 single pole concrete structures will be used for the majority of this project. Four concrete H-frame structures, typically with steel crossarms, will be used to span large center-pivot irrigation systems. Typical pole structures for this project will be approximately 95 feet in height. The conductors will be approximately 1⅓ inches in diameter. Three-eighths inch diameter shield wire will be used for lightning protection.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Vince Howard, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085–2088, telephone (770) 270–7635. Mr. Howard's e-mail address is *vince.howand@gatrans.com.*

Dated: May 23, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–13525 Filed 5–29–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]; [C–122–839]

Corrections to Notice of Amended Final Determination of Sales of Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products from Canada and Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Regarding the Antidumping Investigation, contact Constance Handley at (202) 482–0631 or Charles Riggle at (202) 482–0650, Office of AD/CVD Enforcement V, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Regarding the Countervailing Duty Investigation, contact Eric B. Greynolds at (202) 482–6071, Office of AD/CVD Enforcement VI, at the address set forth above.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the 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).

Correction to Scope of Antidumping and Countervailing Duty Orders

On May 22, 2002, the Department of Commerce published its Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products from Canada, 67 FR 36068, and its Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada, 67 FR 36070 (Softwood Lumber Orders). In the "Scope of the Order" sections of the Softwood Lumber Orders, we inadvertently omitted certain language in the exclusion of softwood lumber products contained in

single family home packages or kits. See item (6)B of the "Scope of the Order" sections of the Softwood Lumber Orders, 67 FR at 36068 and 67 FR at 36071, respectively. We correct and amend the "Scope of the Order" sections by replacing item (6)B with the following language:

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, sub floor, sheathing, beams, posts, connectors, and if included in the purchase contract, decking, trim, drywall and roof shingles specified in the plan, design or blueprint.

This notice is published pursuant to sections 706(a) and 736(a) of the Act and 19 CFR 351.211.

Dated: May 24, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–13733 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–017. *Applicant:* Emory University, Department of Biology, 2006 Rollins Research Center, 1510 Clifton Road, Atlanta, GA 30322. *Instrument:* Micromanipulator Assembly for Slice Physiology Setup. *Manufacturer:* Luigs & Neumann, Germany. *Intended Use:* The instrument is intended to be used to do electrophysiological studies using rat brain slices. The experiments consist of preparing slices of rat brain, putting them under the microscope and inserting microelectrodes into single nerve cells. Once the microelectrode is inserted, a fluorescent dye will be injected into the cell body to visualize fine dendritic processes. The microscope will then be moved to focus on one of the visualized fine processes, and a second electrode can be inserted into the same cell. The main objective of this research is to understand neuronal activity and information processing in the mammalian brain. In particular, nerve cells in brain structures involved in motor control will be studied. In addition, the instrument will be used for educational purposes in the course Bio. 498. Application accepted by Commissioner of Customs: May 14, 2002.

Gerald A. Zerdy,

Statutory Import Programs Staff.

[FR Doc. 02–13566 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Akron; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–009. *Applicant:* The University of Akron, Akron, OH 44325. *Instrument:* Shielded Room (Low Field Cage). *Manufacturer:* Magnetic Measurements Ltd., United Kingdom. *Intended Use:* See notice at 67 FR 18862, April 17, 2002.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A cage design allowing visibility of students making measurements inside, (2) very low (about 1% of ambient field) magnetic field space over a large area (up to 2 cubic meters) allowing room for several instruments and (3) ability to actively compensate for a changing magnetic field in the building using a 3-axis fluxgate magnetometer with a sensitivity of 3nT. A domestic manufacturer of similar equipment advised May 16, 2002 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–13565 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 051602B]

Notice of Public Scoping and Preparation of an Environmental Impact Statement for a Middle Fork Nooksack River Habitat Conservation Plan

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act, this notice advises the public that the Fish and Wildlife Service and National Marine Fisheries Service (Services) intend to gather information necessary to prepare an Environmental Impact Statement (Statement). The Statement will examine the proposed approval of a Habitat Conservation Plan (Plan) and issuance of an incidental take permit (Permit) to take threatened species in accordance with the Endangered Species Act of 1973, as amended (Act). The Permit applicant is the City of Bellingham (City). The application is related to water withdrawals from the Middle Fork Nooksack River and Lake Whatcom, and related activities located in Whatcom County, Washington. The applicant intends to request Permits for chinook salmon, bull trout, and Dolly varden, which are listed as threatened under the Act. The City also plans to seek coverage for coho salmon and eight other currently unlisted fish and wildlife species under specific provisions of the Permit, should these

species be listed in the future. In accordance with the Act, the City will prepare a Plan for, among other things, minimizing and mitigating any such take that could occur incidental to the proposed Permit activities.

The Services are furnishing this notice to: advise other agencies and the public of our intentions; and to obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Written comments from all interested parties must be received on or before July 1, 2002. A public scoping meeting will be held June 6, 2002, 6:30–9 p.m.

ADDRESSES: The scoping meeting will be held at the City of Bellingham Public Works Building (Training Room Facility), 2221 Pacific Street, Bellingham, WA. Comments and requests for information should be sent to Mark Ostwald, Project Manager, U.S. Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 102, Lacey, Washington 98503–1273, facsimile (360) 753–9518; or Tom Sibley, Project Manager, National Marine Fisheries Service, 7600 Sand Point Way, N.E., Seattle, Washington, 98115, facsimile (206) 526–4746. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Mark Ostwald, telephone (360) 753–9564; or Tom Sibley, telephone (206) 526–4656.

SUPPLEMENTARY INFORMATION: Section 9 of the Endangered Species Act and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term take is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined by the U.S. Fish and Wildlife Service to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). The National Marine Fisheries Service's definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering (64 FR 60727, November 8, 1999).

The Services may issue permits, under limited circumstances; to take listed species incidental to, and not the purpose of, otherwise lawful activities. U.S. Fish and Wildlife Service regulations governing permits for endangered species are promulgated in 50 CFR 17.22; and, regulations governing permits for threatened species are promulgated in 50 CFR 17.32. National Marine Fisheries Service regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

The City of Bellingham owns and operates a diversion dam on the Middle Fork Nooksack River, a water withdrawal facility on Lake Whatcom, and a water treatment facility near Lake Whatcom. These facilities are located in and adjacent to the City of Bellingham, which is located in Whatcom County, WA. Water is diverted from the Middle Fork Nooksack River at the City's diversion dam, transported via underground pipeline and an above ground canal to the upper end of Lake Whatcom where the water is stored. Withdrawal of water for treatment and ultimate municipal and industrial use occurs near the lower end of Lake Whatcom.

Some of these water withdrawal and related activities have the potential to impact species subject to protection under section 9 of the Act, as described above. Section 10 of the Act contains provisions for the issuance of permits to non-federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities, and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the applicant must prepare and submit to the Services for approval, a Plan containing a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

The City of Bellingham has initiated discussions with the Services regarding the possibility of developing a Plan and securing a Permit for their water withdrawal from the Middle Fork Nooksack and Lake Whatcom and related activities. Activities proposed for coverage under the Permit include the following:

(1) Diversion of water from the Middle Fork Nooksack River to Lake Whatcom, storage of water in Lake Whatcom, withdrawal of water from Lake Whatcom, and transport of water to the City of Bellingham's water treatment plant.

(2) Maintenance and operation of the City of Bellingham's Middle Fork Diversion Dam, including dam repairs, screens (as appropriate), and a fish ladder (as appropriate).

(3) Maintenance and operation of the City of Bellingham's Lake Whatcom withdrawal system from the water intake to, but not including, the water treatment plant; and regulation of discharge to Whatcom Creek.

(4) Maintenance of water supply capacity and operational flexibility necessary for efficient water supply operations that minimize and/or avoid operational disruptions.

The Services will conduct an environmental review of the proposed Plan and prepare a Statement. The environmental review will analyze the proposal, as well as a full range of reasonable alternatives and the associated impacts of each. The Services are currently in the process of developing alternatives for analysis.

Comments and suggestions are invited from all interested parties to ensure that the full range of alternatives related to this proposed action and all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to the Fish and Wildlife Service or National Marine Fisheries Service [see **ADDRESSES**]. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations.

Dated: May 23, 2002.

Anne Badgley,

Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: May 23, 2002.

Phil Williams,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–13558 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–22–S, 4310–55–S

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, (NTIS) Commerce.

ACTION: Notice; solicitation of applications for NTIS Advisory Board.

SUMMARY: The National Technical Information Service (NTIS) is seeking qualified Candidates to serve as members of its Advisory Board (Board). The Board will meet semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure.

DATES: Applications must be received no later than August 28, 2002.

ADDRESSES: Applications should be submitted to Ronald E. Lawson, Director, NTIS, 5285 Port Royal Road, Springfield, Virginia 22161.

FOR FURTHER INFORMATION CONTACT: Walter L. Finch, (703) 605–6507 or via e-mail at *wfinch@ntis.gov*.

SUPPLEMENTARY INFORMATION: The National Technical Information Service (NTIS) is seeking five qualified candidates to serve as members of its Advisory Board, one of whom will also be designated chairperson. The Board was established pursuant to Section 3704b(c) of Title 15, United States Code. It will meet semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure. Members will be appointed by the Secretary and will serve for three-year terms. They will receive no compensation but will be authorized travel and per diem expenses. NTIS is seeking candidates who can provide guidance on trends in the information industry and changes in the way NTIS's customers acquire and use its products and services. Interested candidates should submit a resume and a statement explaining their interest in serving on the Board.

Dated: April 25, 2002.

Ronald E. Lawson,

Director.

[FR Doc. 02–13570 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of the Paperless ELVIS (Electronic Visa Information System) Requirement for Certain Cotton, Wool, Man-Made Fiber, and Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

May 23, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs eliminating the paper visa requirement.

EFFECTIVE DATE: June 15, 2002.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On May 16, 2002, the Governments of the United States and the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) signed the Electronic Visa Information System (ELVIS) Arrangement. This arrangement provides for electronic transmission of visa information to the U.S. Customs Service by the Government of Hong Kong for textiles and textile products exported to the United States which describes the shipment and includes the visa number assigned to the shipment. A paper visa will no longer be required. The transmission certifies the country of origin and authorizes the shipment to be charged against any applicable quota.

Effective on June 15, 2002 for entry into the United States, the paper visa requirement is eliminated for textiles and textile products, produced or manufactured in Hong Kong and exported on or after June 15, 2002. The Government of the HKSAR must issue an ELVIS transmission for each shipment of textiles and textile products, as defined in the Arrangement, for textiles and textile products exported on or after June 15, 2002.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to eliminate the paper visa requirement and to require an ELVIS transmission for shipments of certain textiles and textile products, produced or manufactured in Hong Kong and exported to the United States on or after June 15, 2002. 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 66 FR 65178, published on December 18, 2001. Also see 58 FR 2400, published on January 19, 1983; 51 FR 27235, published on July 30, 1986, and 63 FR 71621, published on December 29, 1998.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 2002.

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 January 14, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong for which the Government of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission.

Effective on June 15, 2002, the paper visa will no longer be required for the entry of shipments of textiles and textile products, produced or manufactured in Hong Kong and exported to the United States on or after June 15, 2002.

Under the terms of 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 Uruguay Round Agreement on Textiles and Clothing (ATC); and pursuant to the Electronic Visa Information System (ELVIS) Arrangement dated May 16, 2002 between the Governments of the United States and the HKSAR, you are directed to prohibit, effective on June 15, 2002, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200-239, 300-369, 400-469, 600-

670, and 800-899, including part categories and merged categories, produced or manufactured in Hong Kong and exported on or after June 15, 2002 for which the Government of the HKSAR has not transmitted an appropriate ELVIS transmission fully described below. Should additional textile products become subject to quantitative restrictions, the product shall be included in the coverage of this directive.

An ELVIS message must accompany each commercial shipment of the aforementioned textile products.

A. Each ELVIS message will include the following information:

i. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for the HKSAR is "HK"), and a six digit numerical serial number identifying the shipment; e.g., 1HK123456.

ii. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

iii. The correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity provided for in the 1992-1995 bilateral agreement and notified to the Textiles Monitoring Body of the WTO Agreement on Textiles and Clothing and listed in Annexes A and B to the Arrangement. Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

iv. The manufacturer identification number (MID). The MID shall begin with 'HK,' followed by the first three characters from each of the first two words of the name of the manufacturer, followed by the largest number on the address line up to the first four digits, followed by the first three letters from the city name where the manufacturer is located.

B. Entry of a shipment shall not be permitted:

i. if an ELVIS transmission has not been received for the shipment from the Government of the HKSAR;

ii. if the ELVIS transmission for that shipment is missing any of the following:

a. visa number,

b. category, part category or merged category,

c. quantity,

d. unit of measure,

e. date of issuance, or

f. MID;

iii. if the ELVIS transmission for the shipment does not match the information supplied by the importer or by its representatives regarding:

a. visa number

b. category, part category, or merged category, or

c. unit of measure;

iv. if the quantity being entered is greater than the quantity in the transmission.

v. if the visa number has previously been used (except in the case of a split shipment) or canceled, except when an entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the HKSAR is required before a shipment that has been denied entry for one of the circumstances mentioned above will be released.

D. Visa waivers will only be considered if the shipment qualifies as a one-time special purpose shipment that is not part of an ongoing commercial enterprise. A visa waiver may be issued by the Department of Commerce at the request of the Hong Kong Economic and Trade Office in Washington, D.C. for the Government of the HKSAR. A visa waiver only waives the requirement to present a transmission at entry and does not waive any quota requirements.

E. In the event of a systems failure, shipments will not be released for twenty-four hours or one full business day. If system failure exceeds twenty-four hours or one full business day, for the remaining period of the system failure the U.S. Customs Service shall release shipments on the basis of the visa data provided by the Government of the HKSAR.

F. If a shipment from the HKSAR is allowed entry into the commerce of the United States with an incorrect ELVIS transmission, or no ELVIS transmission, or system failure, and redelivery is requested but cannot be made, and where the Government of the HKSAR does not issue a new ELVIS transmission or request a visa waiver (if applicable), the shipment will be charged to the correct category limit whether a visa waiver is provided or a new ELVIS message is transmitted.

Other Provisions:

A. The date of export is the actual date the merchandise finally leaves the country of origin. For merchandise exported by carrier, this is the day on which the carrier last departs the country of origin.

B. With the exception of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers, all textile and apparel products, including bona fide gifts valued at U.S. $50 or less, shipped for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require a transmission for entry and shall not be charged to agreement levels. Notwithstanding the above, personal shipments of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers accompanying the traveler, regardless of value, do not require a transmission for entry and shall not be charged to any agreement levels.

C. Textile product integrated into the General Agreement on Tariffs and Trade 1994 by the United States in accordance with the WTO Agreement on Textiles and Clothing do not require a transmission.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13471 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

May 24, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used, carryover, swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63035, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 24, 2002.

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 27, 2001, 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 Sri Lanka and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 30, 2002, you are directed to adjusting the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	496,747 dozen.
314	6,272,349 square meters.
331pt./631pt. [2]	1,188,599 dozen pairs.
333/633	28,178 dozen.
334/634	1,392,652 dozen.
335	274,501 dozen.
336/636	731,188 dozen.
338/339	2,373,506 dozen.
340/640	1,942,683 dozen.
341/641	3,339,264 dozen of which not more than 2,226,176 dozen shall be in Category 341 and not more than 2,094,115 dozen shall be in Category 641.
342/642	1,122,967 dozen.
345/845	306,045 dozen.
351/651	591,656 dozen.
352/652	2,102,738 dozen.
359–C/659–C [3]	1,694,184 kilograms.
360	1,327,477 numbers.
363	21,656,745 numbers.
369–S [4]	768,141 kilograms.
434	9,068 dozen.
435	19,432 dozen.
440	9,638 dozen.
611	3,474,240 square meters.
635	728,219 dozen.
638/639	1,603,686 dozen.
644	952,654 numbers.
645/646	229,079 dozen.
647/648	1,588,840 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13472 Filed 5–29–02; 8:45 a.m.]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denying Entry to Textiles and Textile Products Allegedly Manufactured in Certain Companies in Cambodia

May 23, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs directing Customs to deny entry to shipments allegedly manufactured in certain companies in Cambodia.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 12475 of May 9, 1984, as amended.

The U.S. Customs Service has conducted on-site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies. (See Federal Register notice 64 FR 41395, published on July 30, 1999). In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA is directing the U.S. Customs Service to deny entry to textile and textile products allegedly manufactured by G. T. Garment (Cambodia) Co., Ltd.; Kao Sing Co., Ltd.; and Horus Industrial Corporation for two years. Customs has informed CITA that these companies were found to have been illegally transhipping, closed, or unable to produce records to verify production.

Should CITA determine that this decision should be amended, such amendment will be published in the Federal Register.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The U.S. Customs Service has conducted on-site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies (see directive dated July 27, 1999 (64 FR 41395), published on July 30, 1999). In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA directs the U.S. Customs Service, effective for goods exported on and after May 30, 2002 and extending through May 29, 2004, to deny entry to textiles and textile products allegedly manufactured by the Cambodian companies G. T. Garment (Cambodia) Co., Ltd.; Kao Sing Co., Ltd.; and Horus Industrial Corporation. Customs has informed CITA that these companies were found to have been illegally transshipping, closed, or unable to produce records to verify production.

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,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–13470 Filed 5–29–02; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is conducting a Study of the Community, Higher Education, and School Partnerships (CHESP) supported with Learn and Serve America School-based funds. This notice concerns the collection of information from CHESP grantees and subgrantee organizations which will describe the organizations, the CHESP activities that they are involved in, and their perceptions of their CHES Partnerships. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation'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.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by July 29, 2002.

ADDRESSES: Send comments to the Corporation for National and Community Service, Department of Research and Policy Development, Attn: William Ward, 1201 New York Avenue, NW, Washington, DC, 20525, or *wward@cns.gov.*

FOR FURTHER INFORMATION CONTACT: William Ward (202) 606–5000, ext. 375 or wward@cns.gov.

SUPPLEMENTARY INFORMATION:

Background

The intent of the Community, Higher Education, and School Partnerships (CHESP), a service-learning initiative, is for communities, institutions of higher education, and schools to work together to identify and meet the needs of the community and create valuable learning opportunities for young people. The program's purpose is to encourage strategic collaborations among institutions to improve education and communities through service-learning and develop comprehensive demonstration models of service-learning and community, higher education, and school collaborations that can be replicated. A key aspect of CHESP, and what distinguishes it from other service-learning programs, is its emphasis on three-way partnerships among schools, community-based organizations and institutions of higher education.

In February 2000, the Corporation awarded 20 competitive three-year CHESP grants supported with Learn and Serve America: School-based funds to state education agencies, grantmaking entities, and one Indian Tribe. Each grantee then funded between two and 18 local subgrantees (for a total of approximately 166 subgrantees).

The study of the Community, Higher Education, and School Partnerships (CHESP) seeks to describe CHESP grantees and subgrantees and their partnerships; identify facilitators and barriers to establishing service-learning partnerships among CHESP partners; determine whether CHESP programs provide effective models or value-added strategies for service-learning initiatives that can be replicated; and determine whether CHESP programs suggest an appropriate direction for future grantmaking policy.

Current Action

The Corporation seeks approval of two telephone survey forms that will be used to collect information about CHESP grantee and subgrantee partnerships and programs. This requires collecting information from grantee and subgrantee organization staff that will address: (1) CHESP project characteristics and information about the implementation of the partnerships; and (2) the impact of the CHESP partnerships on the grantee and the subgrantee organizations.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: CHESP Grantee/ Subgrantee Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Project staff at CHESP grantee organizations such as state education agencies, grantmaking entities, and one Indian Tribe, and project staff at subgrantee organizations such as community based organizations, elementary and secondary schools and school districts, and institutions of higher education.

Total Respondents: 20 grantees, and approximately 166 subgrantees.

Frequency: One time survey.

Average Time Per Response: Grantee Survey: 60 minutes, Subgrantee Survey: 50 minutes.

Estimated Total Burden Hours: 160.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice 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 22, 2002.

David Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 02–13465 Filed 5–29–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0053]

Federal Acquisition Regulation; Submission for OMB Review; Permits, Authorities, or Franchises Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR)

Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning permits, authorities, or franchises certification. A request for public comments was published in the **Federal Register** at 67 FR 17677, on April 11, 2002.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Respondents: 1,106.
Responses Per Respondent: 3.
Annual Responses: 3,318.
Hours Per Response: .094.
Total Burden Hours: 312.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

Dated: May 23, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13431 Filed 5–29–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0055]

Federal Acquisition Regulation; Submission for OMB Review; Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0055).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning freight classification description. A request for public comments was published in the **Federal Register** at 67 FR 17678, on April 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full uniform freight classification or national motor freight classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Respondents: 2,640.
Responses Per Respondent: 3.
Annual Responses: 7,920.
Hours Per Response: .167.
Total Burden Hours: 1,323.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

Dated: May 23, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–13432 Filed 5–29–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Defense Contract Audit Agency Senior Executive Service Performance Review Boards

AGENCY: Defense Contract Audit Agency, DoD.

ACTION: Notice of membership of the Defense Contract Audit Agency Senior

Executive Service Performance Review Boards.

SUMMARY: This notice announces the appointment of members to the Defense Contract Audit Agency (DCAA) Performance Review Boards. The Performance Review Boards provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Director, Defense Contract Audit Agency, regarding final performance ratings and performance awards for DCAA SES members.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Dale R. Collins, Chief, Human Resources Management Division, Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, Virginia 22060–6219, (703) 767–1039.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of DCAA career executives appointed to serve as members of the DCAA Performance Review Boards. Appointees will serve one-year terms, effective upon publication of this notice.

Headquarters Performance Review Board

Mr. Earl Newman, Assistant Director, Operations, DCAA, Chairperson.

Mr. Lawrence Uhlfelder, Assistant Director, Policy and Plans, DCAA, member.

Mr. Kirk Moberley, General Counsel, DCAA, member.

Regional Performance Review Board

Ms. Barbara Reilly, Regional Director, Mid-Atlantic Region, DCAA, Chairperson.

Mr. David Dzivak, Regional Director, Northeast Region, DCAA, member.

Mr. Christopher Andrezze, Deputy Regional Director, Western Region, DCAA, member.

Dated: May 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–13592 Filed 5–29–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for the Design, Construction, and Operation of One or More Pilot Test Facilities for Assembled Chemical Weapons Destruction Technologies at One or More Sites

AGENCY: Program Manager (PM), Assembled Chemical Weapons Assessment (ACWA), DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the FEIS which assesses the potential impacts of the design, construction, operation, and closure of one or more pilot-scale test facilities for an assembled chemical weapons destruction system at one or more chemical weapons stockpile sites. The FEIS examines the potential environmental impacts of the following alternatives, to include technologies that could be incorporated into a pilot-scale facility: (1) No action (continued storage on site with no ACWA pilot plant or destruction of the stockpile with no ACWA pilot plant); (2) chemical neutralization followed by biological treatment; (3) chemical neutralization followed by supercritical water oxidation; (4) chemical neutralization followed by transpiring wall supercritical water oxidation and gas phase chemical reduction; and (5) electrochemical oxidation.

The chemical stockpile sites are Anniston Army Depot in Alabama, Pine Bluff Arsenal in Arkansas, Pueblo Chemical Depot in Colorado (neutralization followed by transpiring wall supercritical water oxidation, and electrochemical oxidation are not alternatives at Pueblo due to restrictions of Public Law 106–398) and Blue Grass Army Depot in Kentucky. The PM ACWA pilot tests will not halt or delay the operation or construction of any baseline incineration facility currently in progress.

DATES: The waiting period for this FEIS will end 30 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the FEIS, contact the Program Manager for Assembled Chemical Weapons Assessment, Attention: Mr. Miguel Morales, 5183 Blackhawk Road, Building E5101/223, Aberdeen Proving Ground, MD 21010–4005 or by e-mail at *Miguel.Morales@SBCCOM.apgea.army.mil.*

FOR FURTHER INFORMATION CONTACT: Kimberly Collins, Home Engineering, 2014 Tollgate Road, Suite 208, Bel Air, MD 21015, by phone at 888–482–4312 or via e-mail at *kimberly.collins@horne.com.*

SUPPLEMENTARY INFORMATION: This proposed action continues the process that began when Congress established the ACWA Program through passage of the Omnibus Consolidated Appropriations Act, 1997 (Pub. L. 104–208). With the National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261), Congress directed the PM ACWA to plan for the pilot-scale testing of alternatives to baseline incineration for the destruction of assembled chemical weapons. The DoD published a Notice of Intent in the **Federal Register** on April 14, 2000 (65 FR 20139–20140) which provides notice (pursuant to the National Environmental Policy Act and implementing regulations), that it was preparing a draft EIS for follow-on tests including design, construction and operation of one or more pilot test facilities for assembled chemical weapons destruction technologies at one or more sites.

Assembled chemical weapons are munitions containing both chemical agents and explosives that are stored in the United States unitary chemical weapons stockpile. This includes cartridges, land mines, mortar rounds, projectiles, and rockets. Unitary agents include chemical blister agents (e.g., the mustard agents HD and HT) and nerve agents (e.g., GB (Sarin) and VX).

The PM for ACWA demonstrated the technologies considered to be viable. However, the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) limited the technologies to be considered at Pueblo Chemical Depot to those demonstrated prior to May 1, 2000, by the PM for ACWA. The sites considered were selected based on the availability of assembled chemical weapons at the time actual testing would begin. All public comments received on the Draft EIS have been addressed in the FEIS.

Dated: May 23, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety, and Occupational Health), OASA (I&E).

[FR Doc. 02–13453 Filed 5–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Draft environmental Impact Statement (DEIS) for the Disposal of Chemical Munitions at Blue Grass Army Depot (BGAD), Kentucky

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the DEIS that assesses the potential environmental impacts of the design, construction, operation and closure of a facility to destroy the chemical agents and munitions stored at BGAD. The DEIS examines the potential environmental impacts of the following destruction facility alternatives: (1) A baseline incineration facility used by the Army at Johnston Atoll Chemical Agent Disposal System on Johnston Island and currently in use at Desert Chemical Depot, (2) chemical neutralization followed by supercritical water oxidation (SCWO), (3) chemical neutralization followed by SCWO and gas phase chemical reduction, (4) electrochemical oxidation, and (5) no action (continued storage of chemical munitions at BGAD). Although the no action alternative is not viable under Public Law 99–145 (Department of Defense Authorization Act of 1986); it was analyzed to provide a baseline comparison to the proposed action.

DATES: The public comment period of the DEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the DEIS or submit comments, contact the Program Manager for Chemical Demilitarization, Public Outreach and information Office (ATTN: Mr. Greg Mahall), Building E–4585, Aberdeen Proving Ground, Maryland 21010–4005.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Mahall at (410) 436–1093, by fax at (410) 436–5122, by e-mail at *gregory.mahall@pmcd.apgea.army.mil* or by mail at the above listed address.

SUPPLEMENTARY INFORMATION: In its Record of Decision (ROD) (53 FR 5816, February 26, 1988) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program (CSDP), the Army selected on-site disposal by incineration at all eight chemical munition storage sites located within the continental United States as the method by which it would destroy its lethal chemical stockpile. The Notice of Intent was published in the **Federal Register** (65 FR 75677–75678, December 4, 2000) providing notice that, pursuant to the National Environmental Policy Act and its implementing regulations, a site-specific EIS for the Blue Grass Chemical Agent Disposal Facility was being prepared. Public scoping meetings were held in Richmond, KY on January 9, 2001. All public comments received during the scoping process have been considered in preparation of this DEIS.

This site-specific EIS continues the process that began when Congress established the Chemical Demilitarization program in Public Law 99–145 (1985). This law, as amended, requires the destruction of the chemical weapons stockpile by a stockpile elimination deadline. This requirement still exists, notwithstanding the establishment of the Assembled Chemical Weapons Assessment (ACWS) Program. The Chemical Demilitarization program published a Programmatic Environmental Impact Statement (PEIS) in January 1988. The ROD states that the stockpile of chemical agents and munitions should be destroyed in a safe and environmentally acceptable manner by on-site incineration. Site-specific EISs that tier off the PEIS have been prepared for Johnston Atoll Chemical Agent Disposal System, Tooele Chemical Agent Disposal Facility, Anniston Chemical Agent Disposal Facility, Umatilla Chemical Agent Disposal Facility, and for the Pine bluff Chemical Agent Disposal Facility.

The specific purpose of the current analysis is to determine the environmental impacts of the alternatives identified in this summary that could accomplish the destruction of the stockpile at BGAD by the required destruction date. In the course of the environmental impact analysis, it will be determined whether construction of a full-scale plant operated initially as a pilot facility and utilizing any of the technologies successfully demonstrated in the ACWA Program is capable of destroying the stockpile at BGAD by the required destruction date (or as soon thereafter as could be achieved by constructing a destruction facility using the baseline incineration technology) and as safely as use of the baseline incineration technology. The ROD (based on the 1988 PEIS) does not limit or predetermine the results of this consideration, and it does not dictate the decision to be made in the ROD following completion of the EIS for this action at BGAD.

The second document announcing the programmatic analysis for follow-on pilot testing of successful ACWA Program demonstration tests pursuant to the process established by Congress in Public Laws 104–208 and 105–261 addresses a distinct but related purpose. That purpose is to determine which technologies can be pilot tested and, if so, at which site or sites. That PEIS can be distinguished from this site-specific EIS in that its emphasis will be on the feasibility of pilot testing one or more of the demonstrated and approved ACWA Program technologies considering the unique characteristics of the alternative sites to include BGAD. The PEIS will not consider the use of a full-scale facility operated initially as a pilot facility at BGAD. As discussed above, this alternative will be considered in the site-specific EIS for BGAD.

A decision on which of the alternatives will be implemented in carrying out the destruction of the chemical munitions at BGAD will be made by the Defense Acquisition Board through a process that will consider a wide range of factors. The factors include, but are not limited to, environmental considerations, laws and regulations, mission needs (at BGAD as well as from a national perspective), implications for compliance with the Chemical Weapons Convention, budget considerations, schedule and public concerns.

Dated: May 23, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I&E).

[FR Doc. 02–13452 Filed 5–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 1, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 23, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Report of Randolph-Sheppard Vending Facility Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 702.

Abstract: The information is needed to evaluate the effectiveness of the Program and to promote growth. The information is transmitted to State agencies to assist in the conduct and expansion of the Program at the State level. Respondents are the designated Vocational Rehabilitation Agencies.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 1982. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–13434 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.359]

Early Reading First Program

AGENCY: Department of Education.

ACTION: Notice revising deadline requirement for State lists of eligible local educational agencies (LEAs) for the initial year's (fiscal year (FY) 2002) Early Reading First grant competition.

SUMMARY: The Secretary revises the requirement that State educational agencies (SEAs) submit lists of eligible LEAs so that the Department receives those lists by a certain deadline (April 30, 2002), to allow lists to be either received by the Department by that deadline or postmarked by that deadline. The Secretary takes this action to allow the Department to accept lists of eligible LEAs where receipt was delayed due to disruptions in normal mail delivery.

Eligibility: The change of deadline procedures affects you only if you are an SEA that submitted a list of eligible LEAs for the Early Reading First competition for FY 2002 that was not received by the Department by April 30, 2002, but that was postmarked by that date.

DATES: *State Data Submission Deadline:* The Department (1) must have received the submission by April 30, 2002; or (2) the SEA must have had its submission postmarked by April 30, 2002, and the Department must have received that submission by June 21, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia McKee, Tracy Bethel, or Jennifer Flood at 202–260–4555, or by e-mail at *ERF@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. If you are an individual with a disability, you may obtain a copy of this notice in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

The Early Reading First Program is a direct competitive grant program that will support early education programs and teach preschool-age children to develop the early language and cognitive skills that they need to enter kindergarten ready to learn to read and succeed under State standards. Eligible entities are eligible LEAs, and public and private organizations in communities served by those LEAs.

The statute bases LEAs eligibility for the Early Reading First Program on the statutory criteria for LEA eligibility for Reading First State Grants Program subgrants. On April 10, 2002, the Secretary published a notice in the **Federal Register** (67 FR 17594) for the Early Reading First Program inviting SEAs, by April 30, 2002, to identify and provide to the Department, for the purposes of the Early Reading First grant competition for FY 2002, a list of eligible LEAs in the State under the Reading First statutory criteria. That notice indicated that if the Department did not *receive* a State's submission of a list of eligible LEAs by April 30, 2002, the Department would itself identify eligible LEAs in the State for the Early Reading First grants for FY 2001. However, the Department recently has experienced disruptions to normal mail delivery. For this reason, the Department did not receive some submissions that States mailed in sufficient time for the Department normally to have received them by April 30, 2002. The Secretary therefore changes the submission procedures to allow for those submissions of State lists of eligible LEAs that either (1) were received by the Department by the deadline; or (2) that were postmarked by that deadline so long as the Department receives the postmarked submission by June 21, 2002.

Waiver of Proposed Rulemaking

It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed requirements that are not taken directly from statute. Ordinarily, this practice would have

applied to the requirements in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. To ensure timely awards of Early Reading First grants, the Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment with respect to this change in the State data submission deadline requirements.

Paperwork Reduction Act Considerations

As required by the Paperwork Reduction Act, the Office of Management and Budget has approved this information collection under OMB control number 1810–0647, which expires August 31, 2002.

Electronic Access to This Document

You may view this document, as well as all of 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 this 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/nara/index.html*

Program Authority: Subpart 2, part B, title I of the ESEA, Pub. L. 107–110.

Dated: May 24, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13573 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.215V—State Educational Agencies]

[CFDA No. 84.215S—Local Educational Agencies]

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Correction

On May 21, 2002, we published in the **Federal Register** (67 FR 35888–35890) a notice inviting applications for new awards for FY 2002 for the Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education. At 67 FR 35889, third column, seventh bullet, ninth line "84.305G" is corrected to read: "84.215V for State Educational Agencies and 84.215S for Local Educational Agencies".

FOR FURTHER INFORMATION CONTACT: Beverly A. Farrar, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502J, Washington, DC 20208–5645. FAX: (202) 219–2053 or via the Internet: *beverly.a.farrar@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format, e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this 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.*

Program Authority: 20 U.S.C. 7247.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–13428 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.184A]

Grants To Reduce Alcohol Abuse; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of this program is to provide grants to local educational agencies (LEAs) to develop and implement innovative and effective alcohol abuse prevention programs for secondary school students.

Eligible Applicants: LEAs.

Applications Available: May 29, 2002.

Deadline for Transmittal of Applications: July 8, 2002.

Deadline for Intergovernmental Review: September 6, 2002.

Estimated Available Funds: $23,250,000.

Estimated Range of Awards: $250,000–$750,000.

Estimated Average Size of Awards: $500,000.

Estimated Number of Awards: 47.

Project Period: Up to 36 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 97, 98 and 99.

Statutory Priority: Under the Elementary and Secondary Education Act, as amended, Title IV, Part A, Subpart 2, Section 4129, this grant competition solicits applications for projects to develop and implement innovative and effective alcohol abuse prevention programs for secondary school students. We will consider only applications that meet this statutory priority.

Supplementary Information: In making awards under this grant program, we will reserve up to 25 percent of the available funds for rural and low-income LEAs.

Contingent upon the availability of funds, we may make additional awards in FY 2003 from the rank-ordered list of non-funded applications from this competition.

Definitions

(1)"Rural and low-income local educational agency" is an LEA: (a) That is designated with a locale code of 6, 7,

or 8, as determined by the Department's National Center for Education Statistics (NCES); and (b) in which 20 percent or more of the children ages 5 through 17 years served by the LEA are from families with incomes below the poverty line.

In order to determine its locale code, an LEA should use the information provided by NCES at: *www.ed.gov/offices/OESE/SDFS/grants.*

For purposes of this competition, locale codes of 6, 7 and 8 are described as follows: (1) Locale code 6: a large town (an incorporated place or a Census-designated place (CDP) with a population of at least 25,000 and located outside a consolidated metropolitan statistical area (CMSA) or metropolitan statistical area (MSA)); (2) locale code 7: a small town (an incorporated place or CDP with a population between 2,500 and 24,999 and located outside a CMSA or MSA); or (3) locale code 8: any incorporated place, CDP, or non-place territory designated as rural by the U.S. Bureau of the Census.

In the case where there are missing data or no data in the NCES table to determine the locale code, applicants may substitute certification by the State educational agency that the LEA is located in an area defined as rural by a governmental agency of the State.

In the case where there are missing data or no data in the NCES table to determine the low-income status of the LEA, applicants may substitute evidence that 20 percent or more of the children ages 5 through 17 years served by the LEA are from families with incomes below the poverty line.

(2) "Secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

Other Requirements

Application Requirements

LEAs submitting an application under this program must:

(1) Describe the activities to be carried out under the grant;

(2) Provide an assurance that such activities will include one or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration, whose evidence of effectiveness includes scientifically based research (a list is provided in the application package); and

(3) Explain how activities to be carried out under the grant that are not described in (2) of this section will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities.

Post-Award Requirements

LEAs receiving a grant under this program must:

(1) Submit an annual report concerning the effectiveness of the programs and activities funded under the grant;

(2) Participate in any technical assistance meetings required by the Department; and

(3) Use a qualified evaluator to design and implement an evaluation of the project using outcomes-based (summative) performance indicators related to behavioral change and process (formative) measures that assess and document the strategies used.

Participation by Private School Children and Teachers

LEAs that receive a grant are required to provide for the equitable participation of eligible private school children and their teachers or other educational personnel. In order to ensure that grant program activities address the needs of private school children, timely and meaningful consultation with appropriate private school officials must occur during the design and development of the program. Administrative direction and control over grant funds must remain with the grantee.

Maintenance of Effort

LEAs may receive a grant only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

Selection Criteria

Applications submitted under this competition will be reviewed using one of two sets of selection criteria in order to respond to a statutory requirement to streamline the application process for rural and low-income LEAs. The first set of criteria may be used by any applicant. The second set may be used only by rural and low-income applicants. Applications will be reviewed and scored separately according to the selection criteria the applicant chooses. Applications using the rural and low-income selection criteria that do not meet the definition for a rural and low income LEA will not be read. The maximum score for all of these criteria is 100 points.

Selection Criteria for Non-Rural, Non-Low-Income LEAs

(1) Need for the Project (20 Points)

In determining the need for the proposed project the following factor is considered: The magnitude or severity of the problem to be addressed by the proposed project.

(2) Quality of the Project Design (50 Points)

In determining the quality of the design of the proposed project, the following factors are considered:

(i) The extent to which the design of the program reflects up-to-date knowledge from research and effective practice.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(3) Quality of the Project Evaluation (30 Points)

In determining the quality of the evaluation, the following factors are considered: (i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

Selection Criteria for Rural and Low-Income LEAs

(1) Need for the Project (20 Points)

In determining the need for the proposed project the following factor is considered: The magnitude or severity of the problem to be addressed by the proposed project.

(2) Quality of the Project Design (50 Points)

In determining the quality of the design of the proposed project, the following factor is considered: The extent to which the design of the

program reflects up-to-date knowledge from research and effective practice.

(3) Quality of the Project Evaluation (30 Points)

In determining the quality of the evaluation, the following factor is considered: The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

Waiver of Proposed RuleMaking

Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on a proposed priority and selection criteria. Section 437(d)(1) of the General Education Provision Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. This is the first competition under the Grants to Reduce Alcohol Abuse program. These requirements will apply to the FY 2002 grant competition only.

For Applications and Other Information Contact

Copies of the application for this competition are available from EDPubs at 1–877–4EDPubs. The complete application package is also available on-line via Internet at: *www.ed.gov/offices/OESE/SDFS*. For all other questions please contact Ann Weinheimer, U.S. Department of Education, 400 Maryland Avenue, SW—Room 3E330, Washington, DC 20202–6123. Telephone: (202) 708–5939, e-mail address: *Ann.Weinheimer@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under *For Applications and Further Information Contact*. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Grants to Reduce Alcohol Abuse program is one of the programs included in the pilot project. If you are an applicant under this grant competition, you may submit your application in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We will continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

—Your participation is voluntary.
—You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
—You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs, (ED 524), and all necessary assurances and certifications.
—Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-Application system.

2. Make sure that the institution's Authorized Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right corner of the ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

We may request that you give us original signatures on all other forms at a later date.

You may access the electronic application for Grants to Reduce Alcohol Abuse Program at: *http://e-grants.ed.gov*.

We have included additional information about the e-APPLICATION pilot project (*see* Parity Guidelines between Paper and Electronic Applications) in the application package.

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(Catalog of Federal Domestic Assistance Number 84.184A, Grants to Reduce Alcohol Abuse)

Program Authority: 20 U.S.C. 7139.

Dated: May 24, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–13572 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting; Correction

AGENCY: Department of Education

ACTION: Correction notice.

SUMMARY: On May 13, 2002, a notice of a public meeting of the Federal Interagency Coordinating Council (FICC) was published in the **Federal Register** (67 FR 32022). This notice corrects the last paragraph in the **SUMMARY** section, as well as, the **DATE AND TIME** and **ADDRESSES** section that were included in the notice. In the last paragraph of the **SUMMARY** section the published date of the FICC committee meetings was June 12, 2002, and has been changed to June 25, 2002. The published date, time, and location for the FICC meeting was Thursday, June 13, 2002, from 9 a.m. to 4:30 p.m. in the U.S. Department of Education, Departmental Auditorium, 400 Maryland Avenue, SW., Washington, DC. It is corrected to read, Wednesday, June 26, 2002, from 9 a.m. to 4:30 p.m. in the U.S. Department of Health and Human Services, 330 Independence Avenue, SW., Room 5051, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bobbi Stettner-Eaton or Obral Vance, U.S. Department of Education, 330 C Street, SW., Room 3090, Switzer Building, Washington, DC 20202.

Telephone: (202) 205–5507 (press 3). Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5637.

Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Obral Vance at (202) 205–5507 (press 3) or (202) 205–5637 (TDD) ten days in advance of the meeting. The meeting location is accessible to individuals with disabilities.

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www.ed.gov.legislative/FedRegister.

To use PDF you must have Adobe Acrobat Reader which is available free at this 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.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rebabilitative Services.

[FR Doc. 02–13569 Filed 5–29–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Worker Advocacy Advisory Committee Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Worker Advocacy Advisory Committee.

The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that public notice of this meeting be published in the **Federal Register**.

DATES: Tuesday, June 18, 2002, 12:30–5:30 p.m. Wednesday, June 19, 2001, 8 a.m.–12:30 p.m.

ADDRESSES: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Judy Keating, Executive Administrator, Worker Advocacy Advisory Committee, U.S. Department of Energy, EH–8, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone Number 202–586–7551, E-mail: *judy.keating@eh.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice to the Director of the Office of Worker Advocacy of the Department of Energy on plans, priorities, and strategies for assisting workers who have been diagnosed with work-related illnesses.

Tentative Agenda

Welcome and Introductions
Organization of the Office of Worker Advocacy
Status of Interagency Work
Discussion of Subcommittee Topics, including claims processing, and Insurer and Contractor Relations
Public Comment
Next Steps/Path Forward

Public Participation: This two-day meeting is open to the public on a first-come, first-serve basis because of limited seating. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Judy Keating at the address or telephone listed above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC on May 24, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–13466 Filed 5–29–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–16–000]

Calpine Texas Pipeline, L.P.; Notice of Petition for Rate Approval

May 23, 2002.

Take notice that on May 2, 2002, Calpine Texas Pipeline, L.P. (Calpine) filed, pursuant to Section 284.224(c)(7) and Section 284.123(b)(1)(ii) of the Commission's Regulations, a petition for rate approval, requesting that the Commission approve the following maximum rates for transportation under Section 311 of the Natural Gas Policy Act. Calpine proposes rates of $0.0121/MMBtu for the Baytown System and $0.0218/MMBtu for the Freestone System.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

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 Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 7, 2002. 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. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13492 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–045]

Columbia Gas Transmission Corporation; Notice of Filing

May 23, 2002.

Take notice that on May 10, 2002, Columbia Gas Transmission Corporation

(Columbia) filed to report on the sharing with its customers of a portion of the profits from the sale of certain base gas as provided in Columbia's Docket No. RP95–408 rate case settlement. See Stipulation II, Article IV, Sections A through E, in Docket No. RP95–408 approved at Columbia Gas Transmission Corp., 79 FERC ¶ 61,044 (1997). Sales of base gas have generated additional profits of $6,285,545 requiring a sharing of 50 percent of the excess profits with customers in accordance with Stipulation II, Article IV, Section C. Consequently, $3,362,403, inclusive of interest, has been allocated to affected customers and credited as a line item to their April 2002 invoices, which credits remain subject to Commission acceptance of this filing.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13494 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–050]

Columbia Gulf Transmission Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 20, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective May 1, 2002:

First Revised Sheet No. 306
Original Sheet No. 316

Columbia Gulf states on April 18, 2002, it made a filing with the Federal Energy Regulatory Commission (Commission) seeking approval of a Rate Schedule PAL negotiated rate agreement with Duke Energy Trading and Marketing, L.L.C. in Docket No. RP96–389–047. Also, on April 25, 2002, Columbia Gulf made a similar filing with the Commission seeking approval of a Rate Schedule PAL negotiated rate agreement with Reliant Energy Services, Inc. in Docket No. RP96–389–048. On May 9, 2002, the Commission issued an order on both filings, approving the service agreements effective May 1, 2002, and directing Columbia Gulf to file a tariff sheet identifying the agreements as non-conforming agreements in compliance with Section 154.112(b) of the Commission's regulations. The instant filing is being made to comply with Section 154.112(b) and reference the non-conforming service agreements in its Volume No. 1 tariff.

Columbia Gulf states that copies of its filing is being mailed to each of the parties listed on the service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13498 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–232–000]

Dominion Transmission, Inc.; Notice of Application

May 22, 2002.

Take notice that on May 8, 2002, Dominion Transmission, Inc. ("DTI"), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP02-232-000 an application pursuant to Sections 157.205 and 157.214 of the Commission's Rules for a certificate of public convenience and necessity authorizing DTI to increase the storage capacity (without native gas) of the Fink-Kennedy/Lost Creek Storage Complex by approximately 10.1 Bcf, from 151.432 to 161.5 Bcf. The Fink-Kennedy/Lost Creek Storage Complex is located in central West Virginia, primarily in Lewis County.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "Rims" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

DTI seeks authorization to increase the maximum storage capacity of the Fink- Kennedy/Lost Creek Storage Complex from its currently certificated capacity of 151.432 (without native gas) to potentially 161.5 Bcf (without native gas). It is anticipated that Lost Creek region of the reservoir will increase in capacity by approximately 3 Bcf, and the Fink-Kennedy region of the reservoir will increase in capacity by approximately 7 Bcf. The currently certificated maximum stabilized shut-in wellhead pressure in lost Creek is 975 psig and Fink and Kennedy is 1,000 psig. DTI is requesting no changes to these maximum stabilized shut-in wellhead pressures. As there is no increase in the maximum stabilized shut-in wellhead pressures, DTI does not believe that the increase in storage capacity will cause any additional migration of storage gas.

Any question regarding the application should be directed to Sean R. Sleigh, certificate Manager, Dominion Transmission, Inc., at: (304) 627–3462.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the

Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Comments, protest 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 under the "e-filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13435 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–17–000]

Gulf States Pipeline Corporation; Notice of Petition for Rate Approval

May 23, 2002.

Take notice that on April 30, 2002, Gulf States Pipeline Corporation (GSP) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for transportation services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA). GSP requests that the Commission determine that its current maximum rates of $.3448 per MMBtu for interruptible transportation and $.1314 per MMBtu commodity charge and $6.49 monthly demand charge for firm transportation remain fair and equitable at this time. GSP also requests continuation of the maximum fuel retention percentage of 2%.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

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 Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 7, 2002. 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. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13493 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–134–001]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 15, 2002, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing a compliance filing as directed by the Commission's April 25, 2002 Order in the above captioned proceeding.

Maritimes states that the purpose of the filing is to comply with the Commission's requirement in the April 2002 Order that Maritimes file certain information as a supplement to its cost-and-revenue study filed on December 27, 2001, in this proceeding.

Maritimes states that copies of its filing have been mailed to all parties on the Commission's Official Service List in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13504 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1324–000]

Mt. Carmel Cogen, Inc.; Notice of Issuance of Order

May 23, 2002.

Mt. Carmel Cogen, Inc. (Mt. Carmel) submitted for filing an application for authority to sell energy in wholesale transactions at negotiated market-based rates. Mt. Carmel also requested waiver of various Commission regulations. In particular, Mt. Carmel requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Carmel.

On May 9, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-East, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Mt. Carmel 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).

Absent a request to be heard in opposition within this period, Mt. Carmel is authorized to issue securities and assume obligations or liabilities as

a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Mt. Carmel, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Mt. Carmel's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13488 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–246–005]

Natural Gas Pipeline Company of America; Notice of Filing Rate Schedule LPS Activity Report

May 23, 2002.

Take notice that on May 15, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing its Activity Report for Rate Schedule LPS.

Natural states that the purpose of this filing is to comply with the Commission's February 1, 2002 order which required Natural to file a report on its Rate Schedule LPS activity forty-five (45) days after its first year of operation.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13503 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL01–56–002 and EC01–63–002]

Niagara Mohawk Holdings, Inc. and National Grid USA; Notice of Filing

May 23, 2002.

Take notice that on July 13, 2001, Niagara Mohawk Holdings, Inc. (Holdings) and National Grid USA (Collectively, Applicants), tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing in response to the Commission's June 13, 2001 order in the above proceedings. Applicants explain, among other things, that even with the requested authority to pay dividends, they will continue to have adequate liquidity and an ability to fund necessary utility expansion. They also commit to an additional limitation on payment of dividends.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). 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 under the "e-Filing" link.

Comment Date: June 3, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13486 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–043]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 15, 2002, 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 sheet proposed to be effective on May 16, 2002:

21 Revised Sheet No. 66A

Northern states that the above sheet is being filed to implement a specific negotiated rate transaction with Dynegy Marketing and Trade in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13495 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–044]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 17, 2002, 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 proposed to be effective on May 18, 2002:

25 Revised Sheet No. 66
22 Revised Sheet No. 66A

Northern states that the above sheets are being filed to implement specific negotiated rate transactions with Dynegy Marketing and Trade and Reliant Energy Services in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13496 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–045]

Northern Natural Gas Company; Notice of Negotiated Rates

May 23, 2002.

Take notice that on May 20, 2002 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 proposed to be effective on May 21, 2002:

26 Revised Sheet No. 66
23 Revised Sheet No. 66A

Northern states that the above sheets are being filed to implement specific negotiated rate transactions with Dynegy Marketing and Trade and Reliant Energy Services in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13497 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–39–024]

Northern Natural Gas Company; Notice of Filing of Annual Report

May 23, 2002.

Take notice that on May 20, 2002, Northern Natural Gas Company (Northern) submitted its annual report pursuant to the Commission's Order in Public Service Company of Colorado, et al., Docket Nos. RP97–369–000, et al.

Northern further states that copies of the filing have been mailed to each of its affected jurisdictional sales customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13499 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–404–005]

Northern Natural Gas Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 10, 2002, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following pro forma tariff sheets:

Pro Forma Fifth Revised Volume No. 1

Tenth Revised Sheet No. 201
Third Revised Sheet No. 304
Second Revised Sheet No. 305
Sheet No. 306

Northern states it is supplementing its Order No. 637 compliance filing proposal by: (1) implementing a virtual segmentation proposal on Northern's system; (2) applying the Commission's CIG discount policy; and (3) setting forth the timing for certain computer modifications as set forth herein.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13501 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–25–000]

Petal Gas Storage, L.L.C.; Notice of Material Deviation Tariff Filing

May 23, 2002.

Take notice that on May 16, 2002, Petal Gas Storage, L.L.C. (Petal), tendered for filing its Material Deviation Tariff Filing.

Petal's filing requests that the Commission approve a Firm Storage Service Agreement between Petal and Southern Company Services, Inc., which contains certain deviations from Petal's pro forma service agreement. Petal requests that the Commission approve the filing effective June 1, 2002.

Petal states that copies of the filing have been mailed to each of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13490 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1327–000]

PPL University Park, LLC; Notice of Issuance of Order

May 23, 2002.

PPL University Park, LLC (PPL University) submitted for filing a tariff that provides for sales of electric energy, capacity, and ancillary services at market -based rates, and for the resale of transmission rights. PPL University also requested waiver of various Commission regulations. In particular, PPL University requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PPL University.

On May 9, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PPL University should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, PPL University is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of PPL University, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PPL University's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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.*

Magalie R. Salas,

Secretary.

[FR Doc. 02–13489 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–397–003 and RP01–33–005]

Questar Pipeline Company; Notice of Compliance Filing

May 23 2002.

Take notice that on May 15, 2002, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets with an effective date of December 1, 2002:

First Revised Volume No. 1

Third Revised Sheet No. 41
Fourth Revised Sheet No. 42
Seventh Revised Sheet No. 43 and 44
Eighth Revised Sheet No. 45
Tenth Revised Sheet No. 46
Seventh Revised Sheet No. 56
Eighth Revised Sheet No. 71
Fourth Revised Sheet No. 71A
Seventh Revised Sheet No. 73
Fifth Revised Sheet No. 73A
First Revised Sheet No. 99I
Second Revised Sheet No. 99J
Original Sheet No. 99K

Original Sheet No. 99L

Questar states that it is also submitted the following pro forma tariff sheets to Pro Forma First Revised Volume No. 1 that it will later file for a December 1, 2003, effective date:

Pro Forma Tariff Sheets

Fourth Revised Sheet No. 41
Ninth Revised Sheet No. 45
Eleventh Revised Sheet No. 46
Ninth Revised Sheet No. 71
Fifth Revised Sheet No. 71A
Third Revised Sheet No. 75D
Third Revised Sheet No. 99J

Questar states that the filing is being made in compliance with the Commission's February 14, 2002 Order, (the February 14th order) proposed tariff sheets to listed below, to be effective December 1, 2002.

In the Commission's February 14th order, the Commission approved, in part, Questar's pro forma tariff sheets and directed Questar to make revisions to its pro forma tariff sheets as discussed in the order and file actual tariff sheets within 30 days of the date of issuance of the February 14th order. On March 4, 2002, Questar requested an extension of time until May 15, 2002, to file certain revised tariff sheets relating to the segmentation portion of the February 14th order. The Commission granted the Extension of Time by notice issued March 7, 2002. On March 18, 2002, Questar submitted its compliance filing addressing all but the segmentation requirements of the February 14th order. With this filing Questar is proposing to implement a two-phase approach to segmentation to comply with the Commission's directives in the February 14th order.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13500 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–242–002]

Southern Natural Gas Company; Notice of Compliance Filing

May 23, 2002.

Take notice that on May 15, 2002, Southern Natural Gas Company (Southern) tendered for filing its report of activities during the first year of service under Rate Schedule PAL, Southern's park and loan service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 30, 2002. 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. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (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 under the "e-Filing" link.

Magalie R. Salas.

Secretary.

[FR Doc. 02–13502 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–88–000]

Wrightsville Power Facility, L.L.C., Complainant, v. Entergy Arkansas, Inc., Respondent; Notice of Complaint

May 22, 2002.

Take notice that on May 21, 2002, Wrightsville Power Facility L.L.C. (Wrightsville) filed a complaint under section 206 of the Federal Power Act, 16 U.S.C. 824e (1994), and section 206 of the Commission's Rules of Practice and Procedure, 18 CFR 206, against Entergy Arkansas, Inc. (Entergy) requesting that the Commission find that the terms and conditions of Wrightsville's Interconnection Agreement with Entergy violate Commission policy and precedent, and are unjust and unreasonable.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). All such motions or protests must be filed on or before June 10, 2002. 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. Answers to the complaint shall also be due on or before June 10, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests, interventions and answers 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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13436 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1319–000]

Zion Energy LLC; Notice of Issuance of Order

May 23, 2002.

Zion Energy LLC (Zion) submitted for filing a tariff that provides for sales of electric energy, capacity, and ancillary services at market -based rates, and for the resale of transmission rights and for the reassignment of transmission capacity. Zion also requested waiver of various Commission regulations. In particular, Zion requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Zion.

On May 10, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Zion 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).

Absent a request to be heard in opposition within this period, Zion is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Zion, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Zion's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 10, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13487 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1289–001, et al.]

Midwest Independent Transmission System Operator, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 23, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1289–001]

Take notice that on May 21, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Midwest ISO Transmission Owners jointly submitted for filing a second substitute page of the Midwest ISO Agreement regarding the implementation of the revenue distribution for revenues from the Regional Through and Out Rate (RTOR) surcharge (RTOR Adder) to Michigan Electric Transmission Company, LLC once it becomes a transmission owner in the Midwest ISO. The second substitute page is intended to correct the lost revenue share of Michigan Electric Transmission's Company's total lost revenues amount, which amount originally contained numbers that were transposed.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001), with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: June 11, 2002.

2. Public Service Company of New Mexico

[Docket No. ER02–1847–000]

Take notice that on May 20, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed copy of a service agreement with Mohave Electric Cooperative, Inc., dated May 1, 2002, for electric energy and/or capacity sales at negotiated market-based rates under PNM's Power and Energy Sales Tariff (FERC Electric Tariff, First Revised volume No. 3).

PNM has requested an effective date of June 1, 2002 for the service agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico. Copies of this filing have been served upon Mohave Electric Cooperative, Inc., the New Mexico Public Regulation Commission, and the New Mexico Attorney General.

Comment Date: June 10, 2002.

3. Maine Public Service Company

[Docket No. ER02–1848–000]

Take notice that on May 20, 2002, Maine Public Service Company (Maine Public) submitted for filing an executed

Service Agreement for Network Integration Transmission Service under Maine Public's open access transmission tariff with Van Buren Light & Power District.

Comment Date: June 10, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1849–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Edison Sault Electric Company.

A copy of this filing was sent to Edison Sault Electric Company.

Comment Date: June 11, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1850–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Energy America, LLC.

A copy of this filing was sent to Energy America, LLC.

Comment Date: June 11, 2002.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1851–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Pardeeville.

A copy of this filing was sent to Village of Pardeeville.

Comment Date: June 11, 2002.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1852–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Georgetown.

A copy of this filing was sent to Village of Georgetown.

Comment Date: June 11, 2002.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1853–000

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by Village of Ripley.

A copy of this filing was sent to Village of Ripley.

Comment Date: June 11, 2002.

9. PacifiCorp

[Docket No. ER02–1854–000]

Take notice that PacifiCorp on May 21, 2002, tendered for filing in accordance with 18 CFR 35 of the Federal Energy Regulatory Commission 's Regulations, a Notice of Filing, and Mutual Netting/Settlement Agreements with El Paso Electric Company.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: June 11, 2002.

10. Wisconsin Electric Power Company

[Docket No. ER02–1855–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on May 21, 2002, tendered for filing a notice of Cancellation effective October 30, 2001 of an Interconnection and Energy Agreement designated as Rate Schedule FERC No. 94 on January 1, 1999 between Wisconsin Electric Power Company and City of Marquette Board of Light and Power.

Comment Date: June 11, 2002.

11. Virginia Electric and Power Company

[Docket No. ER02–1856–000]

Take notice that Virginia Electric and Power Company (the Company) on May 21, 2002, respectfully tendered for filing the Service Agreement by Virginia Electric and Power Company to DTE Energy Trading, Inc. designated as Service Agreement No. 14 under the Company's Wholesale Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 6, effective on June 15, 2000.

The Company requests an effective date of April 22, 2002, as requested by the customer. Copies of the filing were served upon DTE Energy Trading, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: June 11, 2002.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1857–000]

Take notice that on May 21, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted to the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, Service Agreements for the transmission service requested by City of St. Charles.

A copy of this filing was sent to City of St. Charles.

Comment Date: June 11, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at http://www.ferc.gov using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). 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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13485 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–70–000, et al.]

North Atlantic Energy Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 22, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. North Atlantic Energy Corporation, The United Illuminating Company, Great Bay Power Corporation, New England Power Company, The Connecticut Light and Power Company, Canal Electric Company, Little Bay Power Corporation, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and FPL Energy Seabrook, LLC

[Docket Nos. EC02–70–000 and ER02–1832–000]

Take notice that on May 17, 2002, North Atlantic Energy Corporation, The United Illuminating Company, Great Bay Power Corporation, New England Power Company, The Connecticut Light and Power Company, Canal Electric Company, Little Bay Power Corporation, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, and FPL Energy Seabrook, LLC (FPLE Seabrook) (collectively, Applicants) tendered for filing with the Federal Energy Regulatory Commission a joint application pursuant to Sections 203 and 205 of the Federal Power Act, seeking approvals and acceptances relating to the sale of the Seabrook Nuclear Power Station in Seabrook, New Hampshire.

Comment Date: July 16, 2002.

2. Central Illinois Generation, Inc.

[Docket No. EG02–126–000]

Take notice that on April 29, 2002, Central Illinois Generation, Inc. (CIGI), 17751 North CILCO Road, Canton, IL 61520, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

CIGI is a corporation located in the State of Illinois which states it will be engaged exclusively in the business of generating electric energy and selling that energy at wholesale. The eligible facilities include (1) the Edwards facility, a 740 MW coal-fired station located in Bartonville, Illinois, (2) the Duck Creek facility, a 366 MW coal-fired station located in Canton, Illinois, and (3) the Sterling Avenue facility, a 30 MW gas-fired peaking station located in Peoria, Illinois.

Comment Date: June 5, 2002.

3. CED Rock Springs, Inc.

[Docket No. EG02–127–000]

Take notice that on May 1, 2002, CED Rock Springs, Inc. (CEDRS) tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

CEDRS owns and operates two units of a six (6) unit, natural gas fired, simple cycle, combustion turbine generating facility with a total capacity of 1,020 MW, known as the Rock Springs Generating Facility (to be located in Rock Springs, Maryland). When completed, the Project will be interconnected to the transmission system of PJM. The units owned and operated by CEDRS are scheduled to begin commercial operation during the summer of 2002.

Comment Date: June 6, 2002.

4. Cabazon Wind Partners, LLC

[Docket No. EG02–128–000]

Take notice that on May 1, 2002, Cabazon Wind Partners, LLC (the Applicant), with its principal office at 7260 Siete Leguas, P. O. Box 675143, Rancho Santa Fe, California 92067, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a California limited liability company engaged directly and exclusively in the business of developing, owning and operating an approximately 41 MW generating facility located near the town of Cabazon in Riverside County, California. Electric energy produced by the facility will be sold exclusively at wholesale by Applicant.

Comment Date: June 6, 2002.

5. ISO New England Inc.

[Docket No. EL00–62–045]

Take notice that on May 15, 2002, ISO New England Inc. (the ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance filing pursuant to the Commission's April 15, 2002 order issued in the above proceeding.

Comment Date: June 5, 2002.

6. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–011, ER00–1969–013, ER00–3038–006, and EL00–70–007]

Take notice that on May 15, 2002, the New York Independent System Operator, Inc. (NYISO) made a compliance filing to effectuate revisions to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff that would ensure that a fixed block generating unit that forces a more economical unit to be backed down will not set an hourly price in the day-ahead market. The NYISO also requests avoidance of retroactive application of the revisions and a deferral of their effective date in a separate motion.

The NYISO has mailed a copy of this compliance filing to all parties on the service list in the above-captioned proceedings and upon all persons that have executed Service Agreements under the NYISO's Market Administration and Control Area Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 5, 2002.

7. NRG Sterlington Power LLC

[Docket No. ER00–3718–001]

Take notice that on May 15, 2002, NRG Sterlington Power LLC tendered for filing an updated market power study in compliance with the Commission's order in Koch Power Louisiana, LLC, Docket No. ER99–637–000, 86 FERC ¶ 61,029 (1999).

Comment Date: June 5, 2002.

8. New York Independent System Operator, Inc.

[Docket No. ER02–1796–000]

Take notice that on May 16, 2002, the New York Independent System Operator, Inc. (NYISO) tendered for filing proposed revisions to the NYISO Agreement. The NYISO requests an effective date of one business day after this filing (May 17, 2002).

Copies of this filing were served upon all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: June 6, 2002.

9. NEO California Power LLC

[Docket No.ER02–1809–000]

On May 14, 2002, NEO California Power LLC (NEO California) filed with the Federal Energy Regulatory

Commission (1) an amended and restated Summer Reliability Agreement dated December 5, 2001 between the California Independent System Operator Corporation (Cal ISO) and NEO California (Chowchilla II), as Service Agreement No. 2 to NEO California's FERC Electric Tariff, Original Volume No. 1; and (2) an amended and restated Summer Reliability Agreement dated December 5, 2001 between the California Independent System Operator Corporation (Cal ISO) and NEO California (Red Bluff), as Service Agreement No. 3 to NEO California's FERC Electric Tariff, Original Volume No. 1.

Comment Date: June 4, 2002.

10. PPL Electric Utilities Corporation

[Docket No. ER02–1810–000]

Take notice that on May 14, 2002, PPL Electric Utilities Corporation (PPL Electric) filed an Interchange Scheduling Procedures and Data Access Agreement between PPL Electric and Allegheny Electric Cooperative, Inc. (Allegheny).

PPL Electric states that a copy of this filing has been provided to Allegheny.

Comment Date: June 4, 2002.

11. PPL Electric Utilities Corporation

[Docket No. ER02–1811–000]

Take notice that on May 14, 2002, PPL Electric Utilities Corporation (PPL Electric) filed an Interchange Scheduling Procedures and Data Access Agreement between PPL Electric and Allegheny Electric Cooperative, Inc. (Allegheny).

PPL Electric states that a copy of this filing has been provided to Allegheny.

Comment Date: June 4, 2002.

12. Global Advisors Power Marketing L.P.

[Docket No. ER02–1812–000]

Take notice that on May 14, 2002, Global Advisors Power Marketing L.P. (Global Advisors) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Sections 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16 and 131.51. As a result of a name change, Global Advisors is succeeding to the FERC Electric Tariff of GA Power Marketing L.P., effective May 6, 2002. The tariff sheets filed by GA Power Marketing L.P. in Docket No. ER02–1256–000 are cancelled.

Comment Date: June 4, 2002.

13. Commonwealth Edison Company

[Docket No. ER02–1813–000]

Take notice that on May 14, 2002, Commonwealth Edison Company (ComEd) submitted for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service between ComEd and UBS AG, London Branch (UBS London) and a Service Agreement for Non-Firm Point-to-Point Transmission Service and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service between ComEd and enXco, Inc. (enXco) under ComEd's FERC Electric Tariff, Second Revised Volume No. 5.

ComEd seeks an effective date of April 17, 2002 for the Agreements with UBS London and an effective date of April 22, 2002 for the Agreements with enXco and, accordingly, seeks waiver of the Commission's notice requirements. ComEd states that a copy of this filing has been served on UBS London, enXco and the Illinois Commerce Commission.

Comment Date: June 4, 2002.

14. NRG Sterlington Power LLC

[Docket No. ER02–1814–000]

On May 14, 2002, NRG Sterlington Power LLC (NRG Sterlington) filed with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Amended and Restated Power Purchase Agreement with Louisiana Generating LLC, as First Revised Service Agreement No. 1 to NRG Sterlington's FERC Electric Tariff, Original Volume No. 1.

Comment Date: June 4, 2002.

15. NRG Sterlington Power LLC

[Docket No. ER02–1815–000]

On May 14, 2002, NRG Sterlington Power LLC filed under section 205 of the Federal Power Act, Part 35 of the regulations of the Federal Energy Regulatory Commission (Commission), and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. NRG Sterlington's proposed tariff revisions will permit NRG Sterlington to sell ancillary services, in addition to selling electric capacity and energy at market based rates. The revisions also seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for NRG Sterlington's affiliates.

Comment Date: June 4, 2002.

16. American Electric Power Service Corporation

[Docket No. ER02–1816–000]

Take notice that on May 15, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Northwest Fuel Development, Inc. 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 request an effective date of July 13, 2002. A copy of this filing was served upon the Public Utilities Commission of Ohio.

Comment Date: June 5, 2002.

17. American Electric Power Service Corporation

[Docket No. ER02–1817–000]

Take notice that on —May 15, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Lima Energy Company. 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 Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of July 13, 2002. A copy of the filing was served upon Lima Energy Company and the Public Utilities Commission of Ohio.

Comment Date: June 5, 2002.

18. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–1818–000]

Take notice that on May 15, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered an informational filing in compliance with Service Agreements on file with the Federal Energy Regulatory Commission. The filing sets forth the revised approved costs for member-owned generation resources and the revised approved reimbursements under its Resource Integration Agreements with two of its members, Garkane Power Association, Inc. and Moon Lake Electric Association, Inc. A copy of this filing has been served upon all of Deseret's members.

Comment Date: June 5, 2002.

19. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–1819–000]

Take notice that on May 15, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed umbrella service agreements with Sempra Energy Trading Corp., El Paso Merchant Energy, LP, and FPL Energy Marketing, Inc. pursuant to Deseret's open access transmission tariff and the provisions of Order No. 888-A.

Deseret requests a waiver of the Commission's notice requirements for an effective date of May 10, 2002. Each of the transmission customers has been provided a copy of this filing.

Comment Date: June 5, 2002.

20. Consolidated Edison Company of New York, Inc.

[Docket No. ER02–1820–000]

Take notice that on May 15, 2002, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an agreement entitled "Amendment to April 24, 1987 Agreement for the Delivery of Power & Energy from the James A. Fitzpatrick Nuclear Power Project," dated November 29, 2001 (November 29, 2001 Agreement), and a proposed supplement to its Rate Schedule FERC No. 92.

The proposed supplement—supplement No. 9 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) or the New York City Public Utility Service (NYCPUS) identifies the November 29, 2001 Agreement on the title page of the rate schedule and conforms terminology in the rate schedule to that in the November 29, 2001 Agreement.

Con Edison seeks permission to make the rate increase to NYPA public customer service effective as of June 1, 2002. A copy of this filing has been served on COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment Date: June 5, 2002.

21. Entergy Services, Inc.

[Docket No. ER02–1821–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Gulf States and Amelia Energy Center, LP.

Comment Date: June 5, 2002.

22. Entergy Services, Inc.

[Docket No. ER02–1822–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Louisiana and CII Carbon LLC.

Comment Date: June 5, 2002.

23. Entergy Services, Inc.

[Docket No. ER02–1823–000]

Take notice that on May 15, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Arkansas and GenPower Keo, LLC.

Comment Date: June 5, 2002.

24. Northern Indiana Public Service Company

[Docket No. ER02–1824–000]

Take notice that on May 15, 2002, Northern Indiana Public Service Company tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and UBS AG, London Branch, c/o UBS Warburg Energy LLC (UBS).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Non-Firm Point-to-Point Transmission Service to UBS pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of May 16, 2002.

Comment Date: June 5, 2002.

25. Cleco Power LLC

[Docket No. ER02–1825–000]

Take notice that on May 16, 2002, Cleco Power LLC, tendered for filing service agreements under which Cleco Power will provide short-term firm point-to-point transmission service and non-firm point-to-point transmission service to Cleco Power LLC under its Open Access Transmission Tariff.

Comment Date: June 6, 2002.

26. ALLETE, Inc.(formerly Minnesota Power, Inc., d/b/a Minnesota Power)

[Docket No. ER02–1826–000]

Take notice that on May 16, 2002, ALLETE, Inc. (formerly Minnesota Power, Inc., d/b/a Minnesota Power) (MP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter requesting Commission approval of MP's assignment of its membership in the Western Systems Power Pool (WSPP) to Rainy River Energy Corporation. Such assignment is allowed under Section 14 of the WSPP Agreement.

A copy of the filing was served upon the General Counsel to the WSPP.

Comment Date: June 6, 2002.

27. FirstEnergy Solutions Corp.

[Docket No. ER02–1827–000]

Take notice that on May 16, 2002, FirstEnergy Solutions Corp. (FirstEnergy) submitted for informational purposes a Service Agreement No. 4 under FirstEnergy's market-based rate power sales tariff, FirstEnergy Solutions Corp., FERC Electric Tariff, Original Volume No. 1, between FirstEnergy and Duquesne Light Company.

Comment Date: June 6, 2002.

28. Wisconsin Public Service Corporation

[Docket No. ER02–1828–000]

Take notice that on May 16, 2002, Wisconsin Public Service Corporation (WPSC) tendered for filing a revised partial requirements service agreement with Washington Island (WIEC). Third Revised Service Agreement No. 9 provides WIEC's contract demand nominations for January 2002—December 2006, under WPSC's W–2A partial requirements tariff.

The company states that copies of this filing have been served upon WIEC and to the State Commissions where WPSC serves at retail.

Comment Date: June 6, 2002.

29. Exelon Generation Company, LLC

[Docket No. ER02–1829–000]

Take notice that on May 16, 2002, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Select Energy, Inc., under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment Date: June 6, 2002.

30. PacifiCorp

[Docket No. ER02–1830–000]

Take notice that PacifiCorp on May 16, 2002, tendered for filing with the

Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Cancellation of Service Agreements No. 51 and 66 under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 12 for Long Term Service Agreements entered on June 6, 2000 and November 5, 1998 between Flathead Electric Cooperative and PacifiCorp.

Copies of this filing were supplied to Flathead Electric Cooperative, the Public Utility Commission of Oregon and Montana Public Service Commission.

Comment Date: June 6, 2002.

31. ManChief Power Company, L.L.C.

[Docket No. ER02–1831–000]

Take notice that on May 15th, 2002, ManChief Power Company, L.L.C., filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Commission's regulations. ManChief has partially succeeded to Fulton Cogeneration Associates, L.P."s FERC Electric Tariff, Original Volume No. 1, Docket No. ER01–324 and Service Agreement No. 1 Under FERC Tariff, Original Volume No. 1.

Comment Date: June 5, 2002.

32. California Independent System Operator Corporation

[Docket No. ER02–1833–000]

Take notice that on May 17, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Scheduling Coordinator Agreement between the ISO and FPL Energy Power Marketing, Inc. for acceptance by the Commission.

The ISO states that this filing has been served on FPL Energy Power Marketing, Inc. and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective as of May 15, 2002.

Comment Date: June 7, 2002.

33. California Independent System Operator Corporation

[Docket No. ER02–1834–000]

Take notice that on May 17, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Participating Generator Agreement between the ISO and the City of Riverside, California (Riverside) for acceptance by the Commission.

The ISO states that this filing has been served on Riverside and the Public Utilities Commission of the State of California.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 10, 2002.

Comment Date: June 7, 2002.

34. Rochester Gas and Electric Corporation

[Docket No. ER02–1836–000]

Take notice that on May 17, 2002, Rochester Gas and Electric Corporation (RG&E) filed with the Federal Energy Regulatory Commission (Commission), an Application in the above-referenced proceeding requesting that the Commission extend the authorization previously granted to RG&E to make sales to an affiliate in conjunction with the Retail Access Program.

Comment Date: June 7, 2002.

35. Canal Electric Company

[Docket No. ER02–1837–000]

Take notice that on May 17, 2002, Canal Electric Company (Canal Electric) tendered for filing an amendment (Ninth Amendment) to its FPC Rate Schedule No. 33 supplementing and providing for the termination of its contract (the Power Contract) for the sale of electricity from Canal Electric's ownership share in the Seabrook Unit 1 nuclear power plant in Seabrook, New Hampshire to Cambridge Electric Light Company and Commonwealth Electric Company. Canal Electric requests a July 17, 2002 effective date for the Ninth Amendment.

Canal Electric states that the Ninth Amendment is filed in conjunction with the sale by Canal Electric of its 3.52% ownership share in the Seabrook Nuclear Power Plant and in Seabrook Unit 1 nuclear fuel.

Copies of the filing were served upon Canal Electric's jurisdictional customers, the Massachusetts Attorney General, and the Massachusetts Department of Telecommunications and Energy.

Comment Date: June 7, 2002.

36. FPL Energy Seabrook, LLC

[Docket No. ER02–1838–000]

Take notice that on May 17, 2002, FPL Energy Seabrook, LLC (FPLE Seabrook) filed an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Comment Date: June 7, 2002.

37. Ameren Services Company

[Docket No. ER02–1839–000]

Take notice that on May 17, 2002, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and UBS AG, London Branch. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to UBS AG, London Branch pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: June 7, 2002.

38. Public Service Company of New Mexico

[Docket No. ER02–1840–000]

Take notice that on May 17, 2002, Public Service Company of New Mexico (PNM) submitted for filing three executed service agreements for firm point-to-point transmission service and ancillary services, between PNM Transmission Development and Contracts (Transmission Provider) and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Tariff. The first agreement is for 100 MW of reserved transmission capacity from the San Juan Generating Station 345kV Switchyard (San Juan) to the Coronado Generating Station 500kV Switchyard. The second agreement is for 18 MW of reserved transmission capacity from the Palo Verde Generating Station 500kV Switchyard to the Westwing 345kV Switching Station. These two agreements are the result of the Transmission Customer exercising its Right of First Refusal to extend service under respective predecessor service agreements. The third agreement represents a change in reserved transmission capacity requirements in a corresponding pre-Order 888 bundled transmission agreement (through an intervening system) from which the Transmission Provider obtains transmission service for the Transmission Customer. The agreement is for 13 MW of reserved transmission capacity from San Juan to the Greenlee 345kV Switching Station. PNM requests an effective date of May 1, 2002 for the first agreement and June 1, 2002 for the other two agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PNM Wholesale Power Marketing, PNM Transmission Development and Contracts, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: June 7, 2002.

39. Public Service Company of New Mexico

[Docket No. ER02–1841–000]

Take notice that on May 17, 2002, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements for point-to-point transmission service with Florida Power & Light Energy Power Marketing, Inc. (FPL), under the terms of PNM's Open Access Transmission Tariff. One agreement is for Non-Firm service and one agreement for Short-Term Firm Service. PNM requests May 3, 2002, as the effective date for each agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to FPL, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: June 7, 2002.

40. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1843–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Northwestern Wisconsin Electric under MAPP Schedule F.

A copy of this filing was sent to Northwestern Wisconsin Electric.

Comment Date: June 7, 2002.

41. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1844–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Northwestern Wisconsin Electric under MAPP Schedule F.

A copy of this filing was sent to Northwestern Wisconsin Electric.

Comment Date: June 7, 2002.

42. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1845–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing a Service Agreement for transmission service for Split Rock Energy under MAPP Schedule F.

A copy of this filing was sent to Split Rock Energy.

Comment Date: June 7, 2002.

43. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1846–000]

Take notice that on May 17, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35.13, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Administrator of the Mid-Continent Area Power Pool (MAPP) Tariff, submitted for filing Service Agreements for transmission service for UBS AG, London Branch under MAPP Schedule F.

A copy of this filing was sent to UBS AG, London Branch.

Comment Date: June 7, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). 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 under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13484 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Solicitation of Motions To Intervene and Protests

May 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License (5MW or More).

b. *Project No.:* P–2000–036.

c. *Date Filed:* October 31, 2001.

d. *Applicant:* Power Authority of the State of New York.

e. *Name of Project:* St. Lawrence-FDR Power Project.

f. *Location:* Located on the St. Lawrence River near Massena, in St. Lawrence County, New York. There are no Federal lands located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Mr. Joseph J. Seymour, Chairman and Chief Executive Officer, Power Authority of the State of New York, 30 South Pearl Street, Albany, NY 12207–3425, (518) 433–6751.

Mr. John J. Suloway, Director, Licensing Division, Power Authority of the State of New York, 123 Main Street, White Plains, NY 10601–3170, (914) 287–3971.

i. *FERC Contact:* Ed Lee, (202) 219–2809 or E-mail *eddie.lee@ferc.gov.*

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments

or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

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 (http://www.ferc.gov) under the "e-Filing" link.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. The existing St. Lawrence-FDR Power Project is part of the International St. Lawrence Power Project which spans the international portion of the St. Lawrence River and consists of two power developments: (1) the Robert H. Saunders Generating Station and (2) St. Lawrence-FDR Power Project. The Power Authority of the State of New York operates the St. Lawrence-FDR Power Project and the Ontario Power Generation operates the Robert H. Saunders Generating Station (located in Canada and not subject to the jurisdiction of the Commission).

The St. Lawrence-FDR Power Project facilities include (a) all or portions of four dams (Robert Moses Power Dam, Long Sault Dam, Massena Intake, and the U.S. portion of the Iroquois Dam), (b) generating facilities, (c) the U.S. portion of a reservoir (Lake St. Lawrence), (d) seven dikes, and (e) appurtenant facilities. The project has a total installed capacity of 912,000-kW and an average annual generation of about 6,650,000 megawatt hours. All generated power is utilized within the applicant's electric utility system.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2–A, 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 both of the addresses in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Milestone Activity
Notice soliciting final terms and conditions
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 45 days from the issuance date of the notice soliciting final terms and conditions.

p. With this notice, we are initiating consultation with the *New York State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13437 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. JR00–2–000 and Project No. 9100–011]

James M. Knott, Sr.; Errata Notice

May 23, 2002.

The Notice of Petition for Declaratory Order and Solicitation of Comments, Protests, and Motions to Intervene issued on May 15, 2002 (FR Vol. 67, page 35986, published 5/22/02) in the above-referenced proceedings, listed the Applicant Contact, person incorrectly in paragraph "h". It should be corrected as follows:

Jamy B. Buchanan, Esq., Buchanan & Associates, 33 Mt. Vernon St., Boston, MA 02108, telephone: (617) 227–8410 to James M. Knott, Riverdale Power and Electric Co., Inc., 130 Riverdale St., Northbridge, MA 01534, telephone: (518) 234–4408.

Magalie R. Salas,

Secretary.

[FR Doc. 02–13491 Filed 5–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7217–6]

Office of Solid Waste Notice of Availability of Report to Congress

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document announces the availability of the Agency's Report to Congress, "Evaluating the Consensus Best Practices Developed through the Howard Hughes Medical Institutes's Collaborative Hazardous Waste Management Demonstration Project and the Need for Regulatory Changes to Carry Out Project Recommendations." The Report was prepared at the direction of the Fiscal Year 2001 Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Committee (Senate Report 106–410 and House Report 106–674 accompanying H.R. 4635). The Report discusses a collaborative project EPA participated in with the Howard Hughes Medical Institute, ten major academic research institutions, and states. The collaborative project established and evaluated a performance-based approach to management of hazardous wastes in the laboratories of academic research institutions.

ADDRESSES: Electronic copies of the Report may be downloaded from EPA's Web site, *http://www.epa.gov/osw/specials/labwaste/index.html.*

FOR FURTHER INFORMATION CONTACT: Kristin Fitzgerald, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460 or 703–308–8286 or *fitzgerald.kristin@epa.gov.*

Dated: May 22, 2002.

Elizabeth Cotsworth,

Office Director, Office of Solid Waste.

[FR Doc. 02–13518 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Renewable Energy Exports Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Renewable Energy Exports Advisory Committee was established by the Board of Directors at Ex-Im Bank to assist the Bank in meeting its objective of supporting U.S. exporters in renewable energy industries. In addition, the goal is to seek advice from the private sector about best practices when addressing renewable energy exports.

TIME AND PLACE: Monday, June 10, 2002, at 8:30 AM to 11:30 PM. The meeting will be held at Ex-Im Bank in room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: Agenda items include the introduction of the Advisory Committee's themes and goals, an overview of Ex-Im Bank's activity in the renewable energy sector, and presentations from both the private and public sector.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to June 4, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3542.

Peter Saba,

General Counsel.

[FR Doc. 02–13416 Filed 5–29–02; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 23, 2002, 10 a.m. meeting open to the public. The following item was continued: Final Audit of Bauer for President 2000, Inc.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 6, 2002, Executive Session; this meeting has been rescheduled for Monday, June 3, 2002, at 11 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Tuesday, June 4, 2002 and Wednesday, June 5, 2002 to begin at 9:30 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Soft Money Rules: Notice of Proposed Rulemaking.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 6, 2002, meeting open to the public. This meeting has been cancelled.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–13741 Filed 5–28–02; 2:51 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011806.

Title: Industrial Maritime Carriers/ Nordana Line Slot Charter and Sailing Agreement.

Parties:

Industrial Maritime Carriers (USA), Inc.

Nordana Line (Dannebrog Rederi) AS.

Synopsis: The proposed agreement establishes a vessel-sharing agreement under which Industrial Maritime will make space available to Nordana on Industrial Maritime's vessels operating in the trade between U.S. Gulf ports and ports in Colombia and Venezuela. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: May 24, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–13535 Filed 5–29–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Cargomax Express, Inc., 1171 Landmeier Road, Suite 132, Elk Grove Village, IL 60007. Officers: Jong Dae Lee, President (Qualifying Individual), Jennifer Lee, C.F.O.

CK Logistics, Inc., 500 Sandau Road, Suite 600, San Antonio, TX 78216. Officers: Christopher S. Kuehler, President (Qualifying Individual).

Pella Moving & Storage dba BBS, 291 Marlin Street, Port Newark, NJ 07114. Officer: Nicholas Iacopella, President (Qualifying Individual).

Overseas Shipping and Logistics, Inc., 122 Scribner Avenue, Staten Island, NY 10301. Officer: Gulamhyder Shroff, President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Diarama Export, Inc., 2754 NW North River Dr., Suite 6, Miami, FL 33142. Officer: Diinorah Aguiar, President (Qualifying Individual).

Uniworld Cargo Shipping Lines LLC, 4000 West Side Avenue, North Bergen, NJ 07047. Officers: Helen Shany, Member (Qualifying Individual), Ayal Shany, Member.

Shipping Services of America, LLC, 373 Broadway, Suite B–17, New York, NY 10013. Officers: Armando D. Dabalus, President (Qualifying Individual), Elsa D. Patriarca, Vice President.

JVL America, Inc., 1515 W. 178 Street, Gardena, CA 90248. Officers: Carol Wang, Operations Director (Qualifying Individual), Takashi Miyazawa, President.

DLM Ventures, Inc., 1850 NW 84th Avenue, Suite 114, Miami, FL 33126. Officers: Debbie M. Lawrence-Martinez, President (Qualifying Individual), Jose Felix Ramirez, Vice President.

E.T.F. Services, Inc. dba Global Link Enterprises, 2500 83rd Street, Door #9B2, North Bergen, NJ 07047. Officers: Alexander Duran, President (Qualifying Individual), Edward Duran, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Maersk Logistics, Inc., Giralda Farms, Madison, NJ 07940–0880. Officers: Anthony A. Chiarello, President (Qualifying Individual), Thomas Thune Andersen, Chairman.

Panmet Group Incorporated, 1399 Hodlmair Lane, Elk Grove Village, IL 60007. Officers: Ross Flynn, President (Qualifying Individual), Katharine Flynn, Treasurer.

API Network, Inc., 3318 SW 2nd Avenue, Fort Lauderdale, FL 33315. Officer: John Thomason, President (Qualifying Individual).

Eagle Pacific, Corp., 182–16 149th Road, Rm #288, Jamaica, NY 11413. Officer: Luyin (Grace) Zhang, President (Qualifying Individual).

Daga Cargo, Inc., 8061 N.W. 67th Street, Miami, FL 33166. Officers: Alfonso Vallejo, Secretary (Qualifying Individual), Armando Ujueta, President.

Fletamentos Y. Cargas Miami, Inc., 1320 Drexel Avenue, #300, Miami Beach, FL 33139. Officer: Carlos J. Pelaez, President (Qualifying Individual).

Charter Brokerage Corporation, One Atlantic Street, Stamford, Conn. 06901. Officers: William J. Phelan, President (Qualifying Individual), Michael F. Mitri, Vice President.

China Linq, LLC, 20675 Manhattan Place, Torrance, CA 90501. Officers: Jacob Bech-Hansen, Managing Director (Qualifying Individual), Greg Ruggles, Managing Member.

Dated: May 24, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–13536 Filed 5–29–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

AGENCY: Federal Maritime Commission.

ACTION: Notice of availability of Draft Information Quality Guidelines.

SUMMARY: Pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554, 114 Stat. 2763) and guidelines issued by the Office of Management and Budget ("OMB"), the Federal Maritime Commission ("Commission") has published draft Information Quality Guidelines ("Guidelines") on its Web site at *www.fmc.gov*. The draft Guidelines set forth the Commission's policies and programs for ensuring and maximizing the quality, objectivity, utility, and integrity of certain information disseminated to the public. Following its review of any comments received, and making any appropriate changes, the Commission will send the final draft of its Guidelines to OMB for review. The Commission's final Guidelines will then be published in the **Federal Register** and posted on the agency's Web site.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than June 13, 2002.

ADDRESSES: Address all comments concerning the draft Guidelines to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov*.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov*.

By the Commission.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–13557 Filed 5–29–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Request Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Form R–43 submitted for revision and extension.

SUMMARY: This notice announces that the Federal Mediation and Conciliation Service is requesting an extension and revision of its Form R–43 (OMB 3076–0002).

DATES: Comments must be submitted within 60 days of the date of publication of this notice in the **Federal Register**.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attn: Desk Officer for the Federal Mediation and Conciliation Service, Room 10235, Washington, DC 20503.

Comments may be submitted also by fax at (202) 606–3749 or electronic mail (e-mail) to *arbitration@fmcs.gov*. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as "CBI". Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. FMCS may disclose information not marked confidential publicly without prior notice. All written comments will be available for inspection in Room 704 at the Washington, DC address above form 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Stret, NW., Washington, DC 20427. Telephone (202) 606–5111; Fax (202) 606–3749.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Office of Arbitration Services by calling, faxing or writing to the individual's whose name appears in the

heading **FOR FURTHER INFORMATION CONTACT.**

I. Information Collection Requests

FMCS is seeking comments on the following Information Collection Request (ICR).

Title: Request for Arbitration Services. Form R–43, OMB No. 3076–0002.

Type of Request: Revision and extension of expiration date of a currently approved collection with minor changes in the substance.

Affecting Entities: Employers and their representatives, employees, labor unions and their representatives who request arbitration services.

Frequency: This form is completed each time an employer or labor union requests a panel of arbitrators.

Abstract: Pursuant to 29 U.S.C. 171(b) and 29 CFR part 1404, FMCS offers panels of arbitrators for selection by labor and management to resolve grievances and disagreements arising under their collective bargaining agreements and to deal with fact findings and interest arbitration issues as well. The need for this form is to obtain information such as name, address, and type of assistance desired, so that FMCS can respond to requests efficiently and effectively for various arbitration services. The purpose of this information collection is to facilitate the processing of the parties' request for arbitration assistance. No third party notification or public disclosure burden is associated with this collection. This notice for comments refers to a revision of the current form to include the new proposed fees and to include more payment options for requesting arbitration services.

Burden Statement: The current total annual burden estimate is that FMCS will receive requests from approximately 18,000 respondents per year. In most instances, the form is completed many times by the same parties throughout a year and takes about ten minutes to complete.

II. Request for Comments

FMCS solicits 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) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, *e.g.*, permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper electronic record maintained at the address at the beginning of this document. FMCS will transfer all electronically received comments into printed-paper form as they are received.

George W. Buckingham, Jr.,

Deputy Director.

[FR Doc. 02–13479 Filed 5–29–02; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 21, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. ITLA Capital Corporation, La Jolla, California; to acquire ITLA Mortgage Loan Securitization 2002-1, L.L.C., La Jolla, California; and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 24, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13610 Filed 5–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Bancshares of Florida, Inc. (formerly Citizens Bancshres of Southwest Florida), Naples, Florida; to acquire 100 percent of the voting shares of Bank of Florida (in organization).

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer)

230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Orchid Financial Bancorp, Inc., St. Charles, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of American Eagle Bank, South Elgin, Illinois (in organization), Fort Lauderdale, Florida.

Board of Governors of the Federal Reserve System, May 24, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–13611 Filed 5–29–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–58]

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) 498–1210.

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) OMB No. 0920 -0237—Revision—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 January 2005.

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.

Category	Number of respondents	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				40,493

Dated: May 21, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13419 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–57]

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)498–1210.

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: Gene-Environment Interactions in Beryllium Sensitization and Disease Among Current and Former Beryllium Industry Workers (OMB No. 0920–0463)—Extension—National Institute for Occupational Safety and Health (NIOSH)—Centers for Disease Control and Prevention (CDC).

Background: Beryllium is a light weight metal with wide application in modern technology. The size of the USA workforce at risk of beryllium exposure is estimated at approximately one million, with exposed workers in primary production, nuclear power and weapons, aerospace, scrap metal reclaiming, specialty ceramics, and electronics industries. Demand for beryllium is growing worldwide, which means that increasing numbers of workers are likely to be exposed. An acute pneumonitis due to occupational exposure to beryllium was common in the 1940s and 1950s, but has virtually disappeared with improvements in work-site control measures. However, even with improved controls, as many as 5% of currently-exposed workers will develop chronic beryllium disease (CBD).

CBD is a chronic granulomatous lung disease mediated through a poorly understood immunologic mechanism in workers who become sensitized. Sensitization can be detected using a blood test, that is used by the industry as a surveillance tool. The blood test for sensitization was first reported in 1989, but many questions remain about the natural history of sensitization and disease, as well as exposure risk factors. Sensitized workers, identified through workplace surveillance programs, undergo clinical diagnostic tests to determine whether they have CBD. The proportion of sensitized workers who have beryllium disease at initial clinical evaluation has varied from 41–100% in different workplaces. Sensitized workers often develop CBD with follow-up, but whether all sensitized workers will eventually develop beryllium disease is unknown. Early diagnosis at the subclinical stage and careful follow-up seems prudent in that CBD usually responds to corticosteroid treatment. However, the efficacy of screening in preventing adverse outcomes of the disease has not yet been evaluated. Research has indicated certain genetic determinants in the risk of CBD; follow-up studies will be invaluable for further characterizing the genetic contribution to sensitization and disease.

The National Institute for Occupational Safety and Health (NIOSH) wants to determine how beryllium workers and former workers develop beryllium disease and how to prevent it. Through the proposed study, NIOSH has the opportunity to contribute to the scientific understanding of this disease in the context of environmental and genetic etiologic factors. The goals of this investigation are to: (1) Determine the occurrence of beryllium sensitization or disease; (2) seek an association with exposure measurements; (3) explore genetic determinants of susceptibility to CBD; and (4) characterize genetic determinants to ascertain if they are associated with clinical impairment or progression of disease. Through a greater understanding of the environmental and genetic risk factors associated with the onset and progression of CBD, NIOSH will be able to develop strategies for both primary and secondary prevention applicable to beryllium-exposed workers. There is no cost to respondents.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hours)	Total burden (in hours)
Former Workers	525	1	30/60	262.5
Total				262.5

Dated: May 21, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13420 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–29–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Public Health Performance Standards Program State Public Health System Assessment—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the essential services of public health. In the fall of 2000, CDC conducted field tests with the state public health survey instruments in Hawaii, Minnesota, and Mississippi.

CDC is now proposing to implement a formal, voluntary data collection, based on the lessons learned during field testing, to assess the capacity of state public health systems to deliver the Essential Services of Public Health. Electronic data submission will be the method of choice when state and territorial health departments complete the public health assessment.

An estimated 33 percent of the 59 state and territorial health departments are expected to participate in the National Performance Standards Program during the first year. In year two, an additional 25 percent and in year three, 22 percent. The total burden hours are estimated to be 720.

Data collection period	Number of respondents	Number of responses per respondent	Average Burden per Response (in hrs.)
Year 1 ...	20	1	15
Year 2 ...	15	1	15
Year 3 ...	13	1	15

Dated: May 21, 2002.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–13417 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–31–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Hospital Ambulatory Medical Care Survey (NHAMCS) OMB No. 0920–0278—Revision—National Center for Health Statistics, (NCHS) Centers for Disease Control and Prevention (CDC). The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992 and is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of the NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made in the U.S. to outpatient departments and emergency departments of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general. The NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234) which provides similar data concerning patient visits to physicians' offices. The NAMCS and NHAMCS are the principal sources of data on approximately 90 percent of ambulatory care provided in the United States.

The NHAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include patients' demographic characteristics and reason(s) for visit, and the physicians' diagnosis(es), diagnostic equipment and services, medications, and disposition. These data, together with trend data , may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies such as NIH, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, as well as individual practitioners, researchers, administrators, and health planners. Uses vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NHAMCS data set covering several years. The estimated annualized burden for this data collection is 8,809 hours.

Respondents (non-Federal general and short-stay hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Induction form: Ineligible hospitals	50	1	15/60
Induction form: Eligible hospitals	440	1	75/60
Emergency departments	400	1	1
Outpatient departments	240	5	1
ED Patient Record	400	100	5/60
OPD Patient Record	240	150	5/60
Pediatric emergency services and equipment	400	1	30/60
ESA Staffing and Capacity and Ambulance Diversion Supplement	450	1	15/60

Dated: May 21, 2002.

Nancy Cheal,

Acting Assaciate Directar far Policy, Planning, and Evaluatian, Centers far Disease Contral and Prevention.

[FR Doc. 02–13418 Filed 5–29–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–838]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as 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:* Medicare Credit Balancing Reporting Requirements and Supporting Regulations at 42 CFR 405.371, 405.378, and 413.20; *Form No.:* CMS–838 (OMB# 0938–0600); *Use:* The collection of credit balance information is needed to ensure that millions of dollars in improper program payments are collected. Approximately 46,700 providers will be required to submit a quarterly credit balance report that identifies the amount of improper payments due Medicare. Fiscal intermediaries will monitor the reports to ensure these funds are collected; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 46,700; *Total Annual Responses:* 186,800; *Total Annual Hours:* 1,120,800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'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 CMS 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 CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS–838, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 21, 2002.

John P. Burke III,

Paperwark Reductian Act Team Leader, CMS Reports Clearance Officer, CMS Office of Infarmation Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13618 Filed 5–29–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–37]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as 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:* Medicaid Program Budget Request; *Form No.:* CMS–37 (OMB# 0938–101); *Use:* The Medicaid Program Budget Request is prepared by the State agencies and is used by CMS for (1) developing National Medicaid Budget estimates; (2) qualification of budget assumptions; (3) the issuance of quarterly Medicaid grant awards, and (4) collection of projected State receipts of donations and taxes; *Affected Public:* State, local, or tribal gov't; *Number of Respondents:* 56; *Total*

Annual Responses: 224; *Total Annual Hours:* 8064.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS 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: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 21, 2002.

John P. Burke III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–13619 Filed 5–29–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCSE 99SIP–02]

Child Support Enforcement Demonstration and Special Projects—Special Improvement Projects

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of the availability of funds and request for competitive applications under the Office of Child Support Enforcement's Special Improvement Projects.

SUMMARY: The Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE) invites eligible applicants to submit competitive grant applications for special improvement projects which further the national child support mission, vision, and goals which are: all children to have parentage established; all children in IV–D cases to have financial and medical orders; and all children in IV–D cases to receive financial and medical support. Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is August 13, 2002. *See* Part IV of this announcement for more information on submitting applications.

ADDRESSES: Application kits (Forms 424, 424A-B; Certifications; and Administration for Children and Families Uniform Project Description [UPD]) containing the necessary forms and instructions to apply for a grant under this program announcement are available from: Administration for Children and Families, Office of Child Support Enforcement, Division of State, Tribal and Local Assistance, 370 L Enfant Promenade, SW., 4th Floor, East Wing, Washington, DC 20447 (This is Not the Mailing Address for Submission of Applications, see Part IV, B.); or accessible via OCSE s Web site (*www.acf.dhhs.gov/programs/cse/*) under news and announcements; or contact Jean Robinson, Program Analyst, phone (202) 401–5330, FAX (202) 205–4315; e-mail, *jrobinson@acf.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), OCSE, Susan A. Greenblatt at (202) 401–4849, for specific questions regarding the application or program concerns regarding the announcement.

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background— program purpose and objectives, legislative authority, availability of funds, and CFDA number.

Part II: Applicant and Project Eligibility— eligible applicants, project priorities, design elements in the application, project and budget periods, and project budget.

Part III: The Review Process— intergovernmental review, initial ACF screening, competitive review and evaluation criteria, and funding reconsideration.

Part IV: The Application—application development, and application submission.

The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 12/31/2003. 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.

Part I. Background

A. Program Purpose and Objectives

The purpose of the program is to fund a number of special improvement projects which further the national child support mission to ensure that all children receive financial and medical support from both parents and which advance the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA strengthens the ability of the nation's child support program to collect support on behalf of children and families. The law also enables the testing of child support innovations to improve program performance. For FY 2002, we are looking for projects which collaborate with new partners, especially community and faith-based organizations, which will help the child support community better address the needs of harder-to-serve populations, such as low-income non-custodial fathers and culturally diverse populations, so we can produce greater impacts on child support outcomes (*e.g.*, increasing the establishment of child support orders and child support collections.) We are looking for grants in the following priority areas:

- Helping low-income fathers meet their child support and family responsibilities.
- Encouraging new ways to approach unwed parents to emphasize the importance of healthy marriage to a child's well-being.
- Increasing the number of child support cases with medical coverage for children.
- Expanding use of automation tools and best practices
- Improving child support services for ethnic and culturally diverse populations, Tribes and the international community.
- Furthering the child support mission to ensure all children receive financial and medical support from both parents.

Specific design specifications for each of these priority areas are set forth under Part II.

Applicants should understand that OCSE will not award grants for special improvement projects which (a) duplicate automated data processing and information retrieval system requirements/enhancements and associated tasks which are specified in PRWORA; or (b) which cover costs for routine activities which should be

normally borne by the Federal match for the Child Support Program or by other Federal funding sources (*e.g.* adding staff positions to perform routine CSE tasks). Proposals should be developed with these considerations in mind. Proposals and their accompanying budgets will be reviewed from this perspective.

B. Legislative Authority

Section 452(j), 42 U.S.C. 652(j) of the Social Security Act provides Federal funds for technical assistance, information dissemination and training of Federal and State staff, research and demonstration programs and special projects of regional or national significance relating to the operation of State child support enforcement programs.

Section 453 (42 U.S.C. 653) of the Social Security Act provides Federal funds to cover costs incurred for the operation of the Federal Parent Locator Service.

C. Availability of Funds

Approximately $4 million is available for all priority areas. Refer to each priority area for estimated number of projects and funding. All grant awards are subject to the availability of appropriated funds. A non-Federal match is not required.

D. CFDA NUMBER: 93.601—Child Support Enforcement Demonstrations and Special Projects.

Part II. Applicant and Project Eligibility

A. Eligible Applicants

Eligible applicants for these special improvement project grants are State (including District of Columbia, Guam, Puerto Rico, and the Virgin Islands) Human Services Umbrella agencies, other State agencies (including State IV–D agencies), Tribes and Tribal Organizations, local public agencies including IV–D agencies), nonprofit organizations (including faith-based organizations and universities such as Historically Black Colleges and Universities) and consortia of State and/or local public agencies. The Federal OCSE will provide the State CSE agency the opportunity to comment on the merit of local CSE agency applications before final award. Given that the purpose of these projects is to improve child support enforcement programs, it is critical that applicants have the cooperation of IV–D agencies to operate these projects. Preferences will be given to applicants representing CSE agencies and applicant organizations which have letters of commitment or cooperative agreements with CSE agencies. All applications developed jointly by more than one agency organization must identify a single lead organization as the official applicant. The lead organization will be the recipient of the grant award. Participating agencies and organizations can be included as co-participants, subgrantees, or subcontractors with their written authorization.

B. Project Priorities

The following are the specified priority areas for special improvement projects for FY 2002.

Priority Area 1: Helping low-income fathers meet their child support and family responsibilities.

1. Purpose: The purpose of this solicitation is to demonstrate effective child support strategies to help low-income fathers meet their child support and family responsibilities.

2. Background and Information: A principal aim of the Child Support Enforcement Program has always been to secure payment of child support by low-income and welfare related non-custodial parents. This goal is more critical than ever due to time limited welfare under Temporary Assistance for Needy Families (TANF). Accordingly, there have been accelerated efforts to try to secure child support payments from low-income non-custodial parents especially for welfare mothers and children. Recent studies by the Urban Institute and National Conference of State Legislatures indicate that for many low-income fathers non-payment may be caused by poverty, job instability, unemployment and/or incarceration. A study by the Urban Institute indicates that 60% of non-payers have a limited ability to pay child support due to low-incomes, low education levels, high rates of institutionalization and intermittent employment history. In addition, an Office of Inspector General study indicates that lower payment rates for low-income cases are associated with specific child support measures used in establishing orders such as use of *imputed incomes* (incomes estimated where non-custodial parents (NCP) either have no income or do not report incomes at child support order hearings): setting *minimum orders* (a child support amount based upon an arbitrary non-income figure or the minimum wage); or reluctance by some states to modify orders downward even when changes in circumstances warrant. Poor child support payment rates have caused high arrearages which are difficult to modify or forgive. States generally do not reduce or limit arrearages even though a 1999 Federal policy issuance (OCSE–PIQ–99–03) has indicated that States can compromise or settle child support debt owed to the State as state legislation allows.

3. Design Elements in the Application: Given that OCSE has funded a number of projects addressing the needs of low-income NCPs, for this solicitation, OCSE is interested in large scale projects which would incorporate a variety of strategies to provide a comprehensive approach addressing the special circumstances of low-income NCPs. This comprehensive approach should include strategies which would provide a fair approach in establishing orders and setting payment levels; establishing reasonable repayment or suspension of arrears, as appropriate; providing employment services to unemployed low-income fathers in partnership with workforce development agencies and/or provide a variety of services to incarcerated, or paroled NCPs to help them pay child support and encourage reunification with their family, as appropriate. Projects should reflect an institutionalized approach among state or local child support agencies and community- and faith-based organizations in providing employment and other services to low-income NCPs. Design elements for these projects should include at least three of the following:

- Develop, implement and determine the effectiveness of alternative measures to avoid default cases and/or using imputed income/minimum order amounts in establishing child support orders which can create excessive payment levels for low-income NCPs. These alternatives could include adopting more customer friendly approaches in establishing orders for low-income fathers, in order to avoid a high level of default orders; and/or secure and use more complete income information, *e.g.* from New Hire data, for the NCP and CP in default situations or where incomplete income information is given. Order amounts should be reasonable for low-income NCPs, taking into account their ability to pay when confronted with intermittent unemployment. Applicants must provide assurance that under state guidelines, orders can be established based upon the NCP's ability to pay. We are looking for outcome measures which would demonstrate effective alternatives for establishing child support orders in low-income cases, resulting in increased payment rates for low-income NCPs.
- Design, implement and determine the effectiveness of appropriate strategies to permit arrears forgiveness in low-income cases. These strategies should include: (a) referral to employment services for unemployed or

under-employed NCPs that would enable them to obtain employment (leading to more consistent payment of their child support) and thus, permitting arrears forgiveness, after a sustained period of child support payments; or (b) referral to family formation/relationship counseling that, if resulting in marriage, would permit the forgiveness of arrears or fees owed for birth-related costs. These projects would involve a collaborative relationship between State/local CSE agencies, workforce development agencies, and other public agencies, and local organizations (including community- and faith-based organizations) to provide employment services, and/or family formation/relationship counseling services. Applicants must provide assurance (including names of service providers and letters of commitment) that employment, training, or relationship/healthy marriage counseling services are available in the community. We are looking for outcome measures, for example, which would demonstrate either: (a) that the combination of provision of employment services and forgiveness of arrears leads to increased child support collections; or (b) the impact of referrals to relationship counseling increases positive contact between the NCP and his children, increased child support payments or increases in marriage rates when combined with the forgiveness of arrears or birth-related costs.

- Design and implement strategies to provide employment services to low-income fathers who are unemployed or under-employed and cannot meet their child support obligation. Projects should include voluntary and mandatory referral, as appropriate, of NCPs to employment and training services, by child support agencies or the courts/tribunals, to local workforce development agencies or other public employment agencies and local organizations, including community- and faith-based organizations. These projects would involve a formalized partnership [*i.e.*, provide letter(s) of commitment] with the workforce development agency, or other local employment organization, to ensure that the referring child support enforcement agency or tribunal can properly track and monitor NCP's progress, provide intervention if needed, and track outcomes. Outcome measures would include increased payment rates on orders, as well as increases in employment, job retention rates and wages.
- Design and implement strategies to prepare an inmate parent (via pre-release programs) or ex-offender for reintegration into the community that would enable them to obtain employment, successfully reunite with their families, provide financial and emotional support for their children, and avoid recidivism through the use of community- or faith-based support services. These projects would involve a collaborative relationship between State/local CSE agencies, correctional systems, employment and other public agencies, local organizations (including faith-based organizations), or universities such as Historically Black Colleges and Universities, in order to provide the array of services necessary to address the needs of incarcerated parents or ex-offenders. A body of research demonstrates that the establishment (or regular maintenance) of family ties during a parent's incarceration—coupled with employment upon release—are important variables that need to be in place in order to keep ex-offender parents from committing repeat criminal offenses. OCSE is also interested in learning the extent to which prison-based parenting programs, in conjunction with an increase in contact between children and their incarcerated parent, provide enough of an incentive for parents to readily support their children and return to their families upon release from prison. Applicants must provide assurance (including names of service providers and letters of commitment) that employment, training, or parenting/healthy marriage counseling services are available in the community. We are looking for outcomes which can demonstrate results, such as, (a) employment and increased contact with their children help incarcerated or ex-offender NCPs pay child support and reduce recidivism; or (b) parenting/family counseling programs and increased contact with their children while incarcerated results in more incarcerated NCPs paying child support or returning to their families upon release.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to three grants, about $200,000 each, depending on scale of project, for a total of about $600,000.

Priority Area 2: Encouraging new ways to approach unwed parents to emphasize the importance of healthy marriage to a child's well-being.

1. Purpose: The purpose of this solicitation is to demonstrate new ways to approach unwed parents, during pregnancy, at paternity establishment, or at other opportunities after the birth of the child, to encourage healthy marriage while also encouraging paternity establishment as part of the process of taking parental responsibility and strengthening families.

2. Background and Information: Research suggests that non-custodial fathers may not voluntarily abandon their children. Over 80% percent of them show up at the hospital of their child's birth. Many of these young, never-married, non-custodial fathers want to be good parents for their children, but may face obstacles. Many are unemployed or under-employed with insufficient incomes to support a marriage and children, or provide support payments on a regular basis. Many also lack parenting and relationship skills; or lack the knowledge, understanding and importance of child support, family stability and marriage in the lives of their children. Programs need to create new approaches to unwed parents to emphasize the importance of a healthy marriage environment to a child's overall healthy and successful development.

3. Design Elements in the Application: OCSE is looking for projects which implement strategies to improve and strengthen family stability by offering a combination of services to low-income, non-married, non-custodial and custodial parents. Services should include, at a minimum, referral to marriage and parental skills training and could also be combined with job development, enhanced employment opportunities, and financial management skills development. The design should include collaboration with hospitals, clinics, IV–D agencies, TANF agencies, Head Start, child development agencies, community- or faith-based organizations, or other agencies that provide voluntary paternity acknowledgment services, employment, or marriage and parental skills development. These services would be offered to couples throughout the mother's pregnancy, at the time of providing information on paternity establishment, or at other opportunities after the birth of the child. A primary time to offer these services is when the parents are provided information on paternity establishment, recognizing that paternity establishment is an important component of parental responsibility, and that referral of unwed couples to relationship building/marriage skills training services should not reduce paternity establishment rates. Applicants must provide assurance (including names of service providers and letters of commitment)

that employment, training, or relationship/healthy marriage counseling services are available in the community. We are looking for outcomes which would demonstrate, for example, that referral to counseling or other types of relationship skills training and healthy marriage services, results in an increased number of unmarried low-income fathers marrying or providing child support to their children, without reducing paternity establishment rates.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: There will be up to two grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $200,000).

Priority Area 3: Increasing the number of child support cases with medical coverage for children.

1. Purpose: The purpose of this solicitation is to demonstrate new and or more effective strategies to increase the number of children in IV–D cases receiving medical support.

2. Background and Information: Based on OCSE's most recent technical assistance and training needs assessment, States indicated a need for more effective strategies in the area of medical support. For example, States indicated a need for approaches which would provide better coordination between CSE agencies and employers regarding health insurance providers; and/or improving linkages between CSE agencies and Medicaid and SCHIP programs. Improved coordinated processes between CSE agencies and employers' insurance providers or medical agencies should result in an increased number of child support cases with medical coverage for children.

3. Design Elements in the Application: In order to increase the number and accuracy of child support cases with medical coverage for children, OCSE is interested in projects which develop effective/innovative strategies, within Federal law and regulations, to address one or more of the following design elements:

- Develop and implement approaches, including automation enhancements, which would encourage employers to provide CSE agencies information about their health insurance providers so CSE agencies could better track enrollment and monitor enforcement of medical support coverage.
- Develop and implement approaches which improve referrals, automated data interfaces and other related types of information exchange between State/local CSE agencies and agencies administering Medicaid and SCHIP programs for Medicaid and SCHIP cases.
- Develop and implement innovative strategies to test or demonstrate effective approaches for maximizing the enrollment of children in IV-D cases in appropriate health care coverage.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up three grants (ranging from $100,000 to $300,000, depending on scale of project, for a total of about $300,000).

Priority Area 4: Expanding Use of automation tools and best practices

1. Purpose: The purpose of this solicitation is to fund projects that continue to demonstrate the effectiveness of various promising automation tools, in order to modify them for different environments or expand them to involve more child support cases. The ultimate goal is to improve child support performance and customer satisfaction.

2. Background and Information: There have been a number of promising projects using automation to identify and/or increase child support collections and improve customer service. Given the advances in technology and resulting improvement in child support program performance, OCSE, under this solicitation, is providing more opportunities for more States/Tribes to demonstrate effectiveness of automation tools to increase collections, especially for interstate cases, and/or improve customer service. OCSE is specifically interested in projects which: (a) Can demonstrate increased collections by using technology to process interstate cases, provide data matches and attach assets; (b) improve interstate customer satisfaction using automated tools to provide interstate caseworkers more timely access to case information; and (c) help OCSE develop a Common Methodology for estimating annual child support collections attributable to Income Withholding Orders.

3. Design Elements in the Application: In order to expand the use of promising automation tools that help to increase collections and improve customer satisfaction with the child support program, OCSE is interested in projects which use automation tools or expand the use of automation tools in new ways to significantly impact child support program performance. Projects should address one of the following design elements:

- Design, implement or expand, under Cooperative Agreement, the use of automated tools to process intra-state and interstate case files, to provide data matching and the attachment of assets (such as for financial institutions data matches and levies) in order to automatically seize assets and track information on interstate cases. Applicants are encouraged to form collaborative partnerships in development and implementation of this type of project. Consortia of States, with other entities, are encouraged to apply, designating a lead entity as the recipient of the grant award. Applicants must provide written assurances from any participating agencies and organizations involved with this project.

Grantee(s) selected for the Cooperative Agreement are expected to demonstrate an implementation or expansion of projects which take a proven enforcement technique to a larger, regional or national, scale and produces measurable results (*e.g.*, increasing the numbers of interstate cases processed and child support collections obtained).

The grantee will provide a final report that summarizes the baseline data before the grant, the increased child support collections due to actions from this grant, demographic information regarding the collections, the data specifications used, the lessons learned and best practices related to this effort. The grantee must also provide assurance that the Federal government reserves the right to reproduce, publish or otherwise use and to authorize others to use for Federal government purposes, any software, modifications and documentation that are produced under this project.

OCSE will provide the grantee(s) selected for the Cooperative Agreement with files or tapes of child support cases that meet a designated amount of arrearage from those states that have agreed to submit these types of case files or tapes. OCSE will also assist the grantee(s) in disseminating the availability of this process and the results of this automated match.

- Design and implement internet, intranet, or CSENet interactive customer service sites to test methods that provide interstate customers and caseworkers from other states with 24/7 access to their child support case status and payment information. Projects would include the design of central web sites and/or private networks, and other innovative practices. Projects need to address security/privacy considerations. Measurable outcomes could include usage, determining needs of interstate customers and addressing those needs, common definitions or explanation of data elements (i.e. arrearage),

improvement in interstate client and caseworker satisfaction, and cost-effectiveness.

• Demonstrate and test OCSE s Common Methodology to estimate annual child support collections, under a Cooperative Agreement, in order to ensure that the best practices identified are applicable in other jurisdictions. OCSE has developed a Common Methodology as a set of standardized processes and procedures, including an automated statistical model, for use by IV-D agencies in estimating annual child support collections attributable to Income Withholding Orders issued as a result of NDNH matches. The Common Methodology was successfully tested in Delaware by OCSE earlier this year. Eligibility in this priority area is limited to State IV-D Agencies. The grantees will work closely with and report their results once a month, via conference calls, to the OCSE Economic Analysis Team.

OCSE will provide each State selected for the Cooperative Agreement with:

—An electronic and paper copy of the Common Methodology, including a guidebook or narrative explanation of the tasks to be completed and an Excel spreadsheet for entering data for the automated analysis;

—An electronic copy of a random representative sample of 1,000 NDNH (W–4) proactive matches from their State to be studied;

—A point of contact person for the OCSE Economic Analysis Team, who will be available to respond to questions and to offer additional explanations; and

—A written guide for the reports on best practices expected by OCSE by the end of the project.

Each State will provide OCSE with a written final report that (a) identifies best practices using the Common Methodology; (b) all statistical results and findings generated by the Common Methodology; and (c) if appropriate, recommendations for improvement modifications in the Common Methodology Guidebook. OCSE expects that the Cooperative Agreements will lead to rigorous field tests that will yield an optimally user friendly tool and a Guidebook with simple, clear, and sufficiently detailed instructions for users who anticipate and respond to the most frequently asked questions.

4. Project and Budget Period: The project period for this priority area is up to 17 months but the common methodology cooperative agreement projects will be up to six months.

5. Project Budget: It is estimated that, depending on the scale of projects, up to $2 million will be available for cooperative agreement projects addressing data matching and attachment of assets; for the interactive customer service site projects, it is estimated that there will be up to two grants, of approximately $100,000 each, depending on scale, for a total of about $200,000; and for the cooperative agreements common methodology projects, there will be up to three grants, of about $60,000 each, for a total of about $180,000.

Priority Area 5: Improving child support services for ethnic and culturally diverse populations, Tribes and the international community.

1. Purpose: The purpose of this solicitation is to develop new approaches and methods of delivering improved child support enforcement services to better address the needs of underserved ethnic and culturally diverse populations, Tribes, and the international community.

2. Background and Information: OCSE is looking for projects that target underserved ethnic and culturally diverse populations so that they may receive child support enforcement services. More is being done to develop outreach media campaigns and language appropriate materials to better explain the purpose and objectives of the child support program to these groups. In fact, OCSE is funding a number of relatively small scale Hispanic/Latino outreach projects which are developing language appropriate media campaigns, videos, brochures and posters, as well as using community and volunteer resources to engage this community. Under this solicitation, OCSE is interested in collaborations between units of State/local governments and the courts, with other entities such as Tribal governments, community-based and faith-based organizations, or with other nations, to offer model service approaches that will result in larger scale, more systematic, institutionalized approaches to service delivery to underserved populations. Such approaches should have a greater program impact, resulting in measurable improvements (*e.g.*, in rates of paternity establishment, child support orders and collections.) This solicitation is not designed to provide funding for the development and implementation of Tribal CSE programs when these provisions are being addressed through federal regulation.

3. Design Elements in the Application: In order to improve the delivery and responsiveness of the child support system to address the needs of underserved ethnic and culturally diverse populations including, but not limited to, the Hispanic/Latino community, the Asian-American and Pacific Islander community, the African-American community, Tribes, or the international community, OCSE seeks projects which will have a large scale impact on child support outcomes, such as increases in the numbers of orders established and collections. Design elements for these projects should include one or more of the following:

• Design and implement new models and methods of making child support enforcement services more accessible to underserved ethnic and culturally diverse populations, in collaboration with state, local or Tribal governments, the tribunal systems, faith-based, community, and educational organizations (including Historically Black Colleges and Universities). Applicants must provide assurance (*i.e.*, letters or agreements) from collaborative partners that they are committed to the project. Projects should identify the nature/causes of barriers to effective child support enforcement service delivery for customers with language and diversity barriers, and develop and implement approaches to reduce or eliminate them in the provision of child support services. This could include providing bilingual staff, resources, training, *etc.* to judges/attorneys to address the needs of these customers and assure judicial fairness (including the establishment of realistic payment plans which encourage obligor involvement, and the development of new delivery strategies within the community to increase paternity establishment, child support orders, and child support collection rates.) Such projects should be directly linked to the delivery of child support services with a holistic family approach and be large enough in scale to have a substantial impact on child support performance outcomes for underserved populations.

• Design and implement collaborative activities between a state, or states, and Tribes or foreign jurisdictions to improve inter-jurisdictional child support cooperation in ways which will improve child support program outcomes. Applicants must provide assurance (*i.e.*, letters or agreements) from collaborative partners that they are committed to the project. Other sovereign partners should be encouraged to adopt additional UIFSA-like procedures which facilitate interstate cooperation. Variations in procedures between sovereign systems will require additional measures to be developed and implemented to achieve the full benefits of interstate cooperation. Projects should

demonstrate methods leading to improvement of partners' judicial and child support agency cooperation, such as procedures not requiring the physical presence of a petitioner at hearings, utilizing standardized bilingual bi-directional case processing forms, and developing secure and efficient electronic communication methods (including currency transfer and conversion mechanisms) with one or more states. Projects should produce measurable increases in child support enforcement program outcomes (*e.g.,* increased rates of paternity establishment, child support orders and/or collections) in cases between residents of the U.S., Tribes, and other nations.

4. Project and Budget Period: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to three grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $300,000)

Priority Area 6—Projects which further the child support mission to ensure that all children receive financial and medical support from both parents.

1. Purpose: To design and test new models for operating a child support program which further the accomplishment of national goals, *i.e.,* all children have paternity established; all children in IV-D cases have financial and medical support orders; and all children in IV-D cases receive financial and medical support.

2. Background and information: This priority area announcement is meant to solicit proposals and ideas for research and demonstration projects that are not covered by any of the above priority areas. OCSE is looking for projects that will test new interventions and approaches to increase paternity establishments, support orders and collections. We are particularly interested in projects which identify issues and propose/implement solutions to problems that have caused a leveling off of child support collection rates over the past couple of years. As feasible, OCSE encourages collaborations among State/local governments, tribal governments, non-profit, faith-based and community-based organizations, and universities (including Historically Black Colleges and Universities).

3. Design Elements in the Application: Applicants would propose new ways of doing business, within Federal law and regulations, and put them into effect. Applicants are encouraged to apply innovative thinking in approaching how to apply and test new interventions. If the applicant is proposing to replicate an effective child support or social service agency management strategy, the proposal must provide supporting documentation of the success of this model within the last three years and its applicability to improving child support performance. Applicants should not propose using the grant award to simply augment IV–D staff or computer resources that State or local decision makers have been unwilling to fund. Applicants shall enclose letters of commitment from all key entities (*e.g.,* hospitals, courts or other public entities, community- and faith-based organizations, *etc.*) whose cooperation will be needed in the project.

4. Project and Budget Periods: The project period for this priority area is up to 17 months.

5. Project Budget: It is estimated that there will be up to two grants (ranging from about $100,000 to $200,000, depending on scale of project, for a total of about $200,000).

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs 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 single point of contact (SPOC), if applicable, or to ACF. The following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, *etc.,* does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. 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 for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Alece Morgan, Grants Management Officer, 370 L Enfant Promenade, SW., 4th Floor, West Wing, Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding. It is necessary that applicants state specifically which priority area they are applying for. Applications will be screened for priority area appropriateness. If applications are found to be inappropriate for the priority area in which they are submitted, applicants will be contacted for verbal approval of redirection to a more appropriate priority area.

C. Competitive Review and Evaluation Criteria

Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The results of these reviews

will assist the Commissioner and OCSE program staff in considering competing applications. Reviewers scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding because other factors are taken into consideration. These include, but are not limited to, the number of similar types of existing grants or projects funded with OCSE funds in the last five years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; an applicant's progress in resolving any final audit disallowance on previous OCSE or other Federal agency grants. OCSE will consider the geographic distribution of funds among states and the relative proportion of funding among rural and urban areas. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

Proposed projects will be reviewed using the following evaluation criteria:

(1) Criterion I: Objectives and Need for Assistance (Maximum 30 points)

The application should demonstrate a thorough understanding and analysis of the problem(s) being addressed in the project, the need for assistance and the importance of addressing these problems in improving the effectiveness of the child support program. The applicant should describe how the project will address this problem(s) through implementation of changes, enhancements and innovative efforts and specifically, how this project will improve program results. The applicant should address one or more of the activities listed under the "Design Elements in the Application" described above for the specific priority area they are applying for (refer to Part II.B. Project Priorities). The applicant should identify the key goals and objectives of the project; describe the conceptual framework of its approach to resolve the identified problem(s); and provide a rationale for taking this approach as opposed to others.

(2) Criterion II: Approach (Maximum: 30 points)

A well thought-out and practical management and staffing plan is mandatory. The application should include a detailed management plan that includes time-lines and detailed budgetary information. The main concern in this criterion is that the applicant should demonstrate a clear idea of the project's goals, objectives, and tasks to be accomplished. The plan to accomplish the goals and tasks should be set forth in a logical framework. The plan should identify what tasks are required of any contractors and specify their relevant qualifications to perform these tasks. Staff to be committed to the project (including supervisory and management staff) at the state and/or local levels must be identified by their role in the project along with their qualifications and areas of particular expertise. In addition, for any technical expertise obtained through a contract or subgrant, the desired technical expertise and skills of proposed positions should be specified in detail. The applicant should demonstrate that the skills needed to operate the project are either on board or can be obtained in a reasonable time.

(3) Criterion III: Evaluation (Maximum 25 points)

The application describes how the success of this project can be measured and how the success of this project has broader application in contributing to child support enforcement policies, practices, and/or providing solutions that could be adapted by other states/jurisdictions. The applicant should describe the specific results/products that will be achieved; as appropriate, identifies the kinds of data to be collected and maintained; describes procedures for informed consent of participants, where applicable, and discusses the criteria to be used to evaluate the results of the project. The application describes the evaluation methodology to be used to determine if the process proposed was implemented and if the project goals/objectives were achieved. Sound evaluations to determine whether or not project goals have been realized are of importance to child support enforcement policy makers and administrators. Thus, the proposal should include a process evaluation component and comparison of before/and after the project site(s) experience, as appropriate, to demonstrate the results achieved.

(4) Criterion IV: Budget and Budget Justification (Maximum 10 points)

The project costs need to be reasonable in relation to the identified tasks, including the evaluation component. A detailed budget (*e.g.*, the staff required, equipment and facilities that would be leased or purchased) should be provided identifying all agency and other resources (*i.e.*, state, community, or other programs such as TANF or Head Start) that will be committed to the project. Grant funds cannot be used for capital improvements or the purchase of land or buildings. Explain why this project's resource requirements cannot be met by the state/local agency's regular program operating budget.

(5) Criterion V: Preferences (Maximum 5 points)

Preference will be given to those grant applicants representing IV-D agencies and applicant organizations who have documented IV-D agency commitment to the project, either through a cooperative agreement or letter of commitment, which needs to be attached to the application.

D. Funding Reconsideration

After Federal funds are exhausted for this grant competition, applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved for funding) may again be considered for funding. Reconsideration may occur at any time funds become available within twelve (12) months following ranking. ACF does not select from multiple ranking lists for a program. Therefore, should a new competition be scheduled and applications remain ranked without final disposition, applicants are informed of their opportunity to reapply for the new competition, to the extent practical.

Part IV. The Application

A. Application Development

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Application materials including forms and instructions are available from the contact named under the **ADDRESSES** section in the preamble of this announcement.

The length of the application, excluding the application forms, certifications, and resumes, should not exceed 20 pages. A page is a single-side of an 8 ½" × 11 sheet of plain white

paper. The narrative should be typed double-spaced on a single-side of an 8 ½" x 11 plain white paper. Applicants are requested not to send pamphlets, maps, brochures or other printed material along with their application as these are difficult to photocopy. These materials, if submitted, will not be included in the review process. Each page of the application will be counted (excluding required forms, certifications and resumes) to determine the total length. The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part III.C. The Administration for Children and Families Uniform Project Description in the application kit provides general requirements for these evaluation criteria (*i.e.*, Objectives and Need for Assistance; Approach; Evaluation; Budget and Budget Justification).

B. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late and will not be considered in the competition.

2. *Deadline.* Mailed applications shall be considered as meeting an announced deadline, if they are either received on or before the deadline date, or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: SIP Application, 370 L Enfant Promenade, SW., 4th Floor West, Washington, DC 20447. Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine-produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s).

To be acceptable as proof of timely mailing, 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. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed). Express/overnight mail services should use the 901 D Street address instructions as shown below.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant using express/overnight mail services, will be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, addressed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: SIP Application, and delivered at ACF Mailroom, 2nd Floor (near loading dock), Aerospace Building, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application. 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.

3. *Late applications.* Applications that 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.

4. *Extension of deadlines.* ACF may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases.

Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Dated: May 20, 2002.

Sherri Z. Heller,

Commissioner, Office of Child Support Enforcement.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–02–02]

Developmental Disabilities: Final Notice of Availability of Financial Assistance and Request for Applications for Support Demonstration Projects Under the Projects of National Significance Program

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), DDHS.

ACTION: Notice.

SUMMARY: The Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), is accepting applications for Fiscal Year 2002 Projects of National Significance (PNS).

This Program Announcement (Number 93631–02–02) consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD, while Part II provides background information on ADD for applicants. Part III describes the application review process. Part IV contains several components including: description of eligible applicants, purpose of project funds, requirements of project design, and evaluation criteria for each of the Priority Areas which ADD requests applications for Fiscal Year 2002 funding of projects. Additionally, Part IV describes the five (5) Priority Areas, identifies the purpose of each Priority Area, and provides background information specific to each Priority Area in detail for the eligible applicants. The Priority Areas for Fiscal Year 2002 and the primary objective for each Priority Area are as follows:

- Priority Area 1: *Learning through Assisting.* The Primary Objective of Primary Area 1 is to create opportunities for and provide support to high school students to earn service learning credits by assisting children with developmental disabilities in inclusive environments.
- Priority *Area 2: Creating and Celebrating One Community for All Citizens.* The Primary Objective of Priority Area is to build and support local communities of diverse citizens where individuals with developmental disabilities feel welcome and able to make contributions.
- Priority *Area 3: Enhancing Early Literacy and Education for Children with Developmental Disabilities.* The Primary Objective of Priority Area 3 is to identify, evaluate, and promote promising practices in inclusive early literacy and educational programs for young children with developmental disabilities.
- Priority *Area 4: Increasing Access in Rural Communities.* The Primary Objective for Priority Area 4 is to identify, develop, and promote inclusive transportation opportunities and coalitions in rural communities with individuals who experience developmental disabilities.
- Priority *Area 5: Expanding Positive Youth Development Activities for Young People with Developmental Disabilities.* The Primary Objective for Priority Area 5 is to expand youth development activities and provide positive community college experiences for young adults with developmental disabilities.

Finally, Part V describes the process for preparing and submitting the application.

DATES: The closing date for submittal of applications under this announcement is July 24, 2002.

Deadline: Applications Submitted by Mail. 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/Office of Grants Management, 370 L'Enfant Promenade SW., Mail Stop 326–F, Washington, DC 20447–0002, Attention: Lois Hodge. Any applications received after 4:30 p.m. on the deadline date will not be considered for competition.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, 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. All applications shall be mailed or hand-carried at the request and expense of the applicant.

Application Submitted by Courier

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 closing date, between the hours of 8:00 a.m. and 4:30 p.m., EST, Monday through Friday (excluding Federal holidays), at the U.S. Department of Health and Human Services, ACF/Office of Grants Management, 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 mailing 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 (working days are defined as Monday through Friday, excluding Federal Holidays) prior to the closing date for receipt of applications.

Note to Applicants: Express/overnight mail services do not always deliver in the agreed upon timeframe.

Receipt of Applications: Applications must either be hand delivered or mailed to the addresses listed above (under DEADLINE). ACF cannot accommodate transmission of applications by fax or through other electronic media. Applications transmitted electronically will not be accepted. Videotapes and cassette tapes may not be included as part of a grant application for panel review. Additional material will not be accepted, or added to an application, unless it is postmarked by the deadline date.

Late Applications: Applications that 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 application deadlines when circumstances such as acts of God (e.g., floods, hurricanes) occur, or when there is widespread disruption of the mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

FOR FURTHER INFORMATION CONTACT: For information about the application process, program information and application materials contact, ADD at the Administration for Children and Families (ACF), Attention: April Myers, 370 L'Enfant Promenade, SW., Rm. 300F, Washington, DC, 20447, send e-mail to *AMyers@acf.hhs.gov*, or call 202/690–5985. Copies of this Program Announcement and many of the required forms may be obtained electronically at the ADD World Wide Web Page: *http://www.acf.hhhs.gov/programs/add/*.

Notice of Intent to Submit Application: If you intend to submit an application, please fax the following information to April Myers, (202) 690–6904 at, ADD; the number and title of this announcement, the Priority Area you wish to apply under, your organization's name and address, and your contact person's name, your contact's phone and fax numbers, and their e-mail address. This information will be used to determine the number of expert reviewers needed and to update the mailing list for future program announcements.

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) at the Department of Health and Human Services (DHHS). ADD shares goals with other ACF programs that promote the economic and social well being of families, children, individuals, and communities. 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 individual needs, strengths and abilities; and
- A community-based approach that recognizes and expands on the resources and benefits of diversity.

The goals will enable more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance (PNS) 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 to promote the self-sufficiency and protect the rights of persons with developmental disabilities. ADD implements the Developmental Disabilities Assistance and Bill of Rights Act, the DD Act, that was reauthorized in 2000. The DD Act defines developmental disabilities, reauthorizes four major programs under ADD, devolves advocacy to the States, promotes consumer oriented systems change and capacity building activities and facilitates network formations.

The Act supports and provides assistance to States, public agencies, and private nonprofit 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.

As defined in the DD Act, the term "Developmental disabilities" means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairments that is manifested before the individual attains age 22 and is likely to continue indefinitely. Developmental Disabilities result in substantial limitations in three or more of the following functional areas; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and capacity for economic self-sufficiency.

In the DD Act, Congress cited the following findings:

- 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; and
- 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 DD Act further promotes the best practices and policies presented below:

- 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; and
- 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.

Toward these ends, ADD seeks to support and accomplish the following:

- Enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential;
- Support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination and to engage in leadership activities in their communities; and
- Ensure the protection of individuals with developmental disabilities' legal and human rights.

The four programs funded under the DD Act are:

- State Council on Developmental Disabilities that engage in advocacy, capacity building and systematic change activities.
- State Protection and Advocacy System (P&A's) that protect the legal and human rights of individuals with developmental disabilities.
- The National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCDD's) that engages in training, outreach and dissemination activities.
- The Projects of National Significance (PNS), including Family Support Grants, support the development of family centered and directed systems for families of children with disabilities.

All ADD programs must engage in activities related to advocacy, capacity building and systems change in one or more areas of emphasis. These areas of emphasis are: child-care related activities; early intervention and education activities; employment-related activities; health-related activities; housing-related activities; recreation-related activities; transportation-related activities; and quality assurance activities.

C. Statutory Authorities Covered Under This Announcement

This Announcement is covered under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15000, et. seq. The Projects of National Significance (PNS) is Part E of the DD Act of 2000, 42 U.S.C. 15081, et. seq. Provision under this section provides for the award of grants, contracts, or cooperative agreements for projects of national and state policies that reinforce and promote the self-determination, independence, productivity, and integration and inclusion in all facets of community life of individuals with developmental disabilities through family support and data collection activities and other projects that hold promise to expand or improve opportunities for individuals with developmental disabilities.

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 (PNS) that support the development of National and State policies to enhance the independence, productivity, integration, and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State Councils on Developmental Disabilities, Protection and Advocacy Systems, and University Centers in Developmental Disabilities; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, inciuding:

(a) Technical assistance for the development of information and referral systems;

(b) Educating policy makers;

(c) Federal interagency initiatives;

(d) The enhancement of participation of minority and ethnic groups in public and private sector initiatives in developmental disabilities; and

(e) Transition of youth with developmental disabilities from school to adult life.

The purpose of the Projects of National Significance (PNS) program is not only to provide technical assistance to the Developmental Disabilities Councils, the Protection and Advocacy Systems, and the University Centers in Developmental Disabilities, but also to support projects "that hold promise to expand or improve opportunities for people with developmental disabilities." 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 2002 Priority Areas relate to the outcomes contained in ADD's plan for implementing the Government Performance Reporting Act (GPRA). In general, Projects are expected to increase community support and services, promote self-determination and productivity, and encourage interaction and collaboration among all sectors of the Developmental Disabilities field.

Part III. The Application Review Process

A. Eligible Applicants

Before applications under this Program Announcement (Number 93631–02–02) are reviewed, each one will be screened to determine whether the applicant is eligible for funding as public or non-profit private entities under the selected Priority Area. Applications from organizations that 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 Priority Areas. 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 may be included as co-participants, sub-grantees, or subcontractors. Under this solicitation, a few of the Priority Areas may specify that a certain type of organization, such as a Community College, must be the official applicant.

Nonprofit organizations must submit proof of their nonprofit status in the applications at the time of submission. Proof of status includes 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, a copy of a valid IRS tax exemption certificate, or 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.

Faith-based organizations are eligible to apply for PNS grants if they meet the eligibility requirements stated above and for the specified Priority Area.

B. Review Process and Funding Decisions

Applications under this Program Announcement (Number 93631–02–02) from eligible applicants received by the deadline date will be competitively reviewed and scored. Experts in the field, generally persons from outside of the Federal government, will use the evaluation criteria listed later in this Part of the Program Announcement to review and to 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 and/or the applicant. ADD may also solicit comments from ACF 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 PNS decisions for 2002 grant awards, ADD will consider whether applications focus on or feature the following aspects/activities in their project design:

- Services to culturally diverse or ethnic populations;
- 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 human services;
- A substantial involvement of volunteers, the private sector (either financial or programmatic), and/or national or community foundations;
- A favorable balance between Federal and non-Federal funds available for the proposed project, which is likely to result in the potential for high benefit for low Federal investment; and
- A programmatic focus on those most in need of services and assistance, such unserved and underserved populations.

This year, 5 additional points will be added to the applicant's total in the scoring process for any project that includes partnership and collaboration with one or more of the 140 Empowerment Zones/Enterprise Communities. To receive the additional 5 points, the applicant must provide a clear outline for the collaboration and a discussion of how the involvement of the EZ/EC is related to the objectives and the activities of the project. 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 and to address each of the Priority Areas.

C. Evaluation Process

Using the evaluation criteria (described under each Priority Area in Part IV), a panel of at least three reviewers (primarily experts from outside the Federal government) will evaluate and score the applications. To facilitate this review, applicants should ensure that they address the minimum requirements identified 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 under the Priority Area in Part VI indicates the maximum numerical weight that each applicant may receive per section in the review process.

D. Structure of Priority Area Descriptions

The Priority Area Description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization eligible to apply under the particular Priority Area. Specific restrictions are also noted, where applicable.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the Priority Area.
- *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 Priority Area. Relevant information on projects previously funded by ACF, ADD, and/or other State models are noted, where applicable.
- *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.
- *Key Elements of Project Designs:* As a general guide, ADD expects to fund only those proposals for projects that incorporate the elements listed in this section under each Priority Area.
- *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 carefully review the section on the Uniform Project Description and the evaluation criteria under the Priority Area.

- *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 expected to be available to support the project's activities.
- *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 to receive Federal project funds.
- *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 the Priority Areas will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applications under this Program Announcement that do not comply with their specific Priority Area requirements in the section on "Eligible Applicants" will not be reviewed.

Applicants under this Program Announcement must clearly identify the specific Priority Area under which they wish to have their applications considered, and tailor their applications accordingly. Applications that are more clearly focused on and directly responsive to the concerns of their specific Priority Area usually score better than those that are less specific and more generally defined.

E. Available Funds

Subject to the availability of funding. ADD intends to award new grants resulting from this Program Announcement during the fourth quarter of Fiscal Year 2002. For the purpose of the awards under this Program Announcement, the successful applicants should expect a project start date of October 1, 2002. The Priority Area descriptions include information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term "budget period" defines a one-year (12 months) interval of time. Where applicable, a multi-year period of assistance (referred to as the project period) is divided for budgetary and funding purposes into one-year budget periods. The term "project period" means to the total time a project is approved for support, including continuation applications and any federally approved extensions.

Where appropriate, applicants may propose shorter project periods than the maximums specified in the various Priority Areas. Non-Federal share contributions may exceed the minimums specified in the various Priority Areas.

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 provide 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 Public Law 95–134, which requires that the Department waive any requirement for local matching funds for grants under $200,000.

The applicant contribution must be secured from non-Federal sources, except as provided by Federal statute. A cost-sharing or matching requirement may not be met by costs from another Federal grant, unless Federal statue sanctions such. For example, funds from Federal programs that benefit Tribes and Native American organizations have been used to provide valid sources of matching funds. Any Tribe or Native American organization submitting an application to ADD should identify the Federal program(s) that will provide the matching funds in its application. If the applicant is selected to receive PNS funds, then ADD will determine whether there is statutory authority for use of such 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 required to submit a full project description should prepare the project description statement in accordance with the following instructions.

Project summary/abstract: Provide a summary of the project description (a page or less) with reference to the funding request.

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.

Results or Benefits Expected: Identify the results and benefits to be derived. Extent to which the applicant is consistent with the objectives of the application indicates the anticipated contributions to policy practice, theory and/or research. Extent to which the proposed project cost is reasonable in view of the expected results.

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 activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "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.

1. *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 2002 Priority Areas for Projects of National Significance Description and Requirements

The following section presents the Priority Areas for Fiscal Year 2002 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 2002 Priority Area 1: Learning Through Assisting

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.
- *Purpose:* To create opportunities for and provide support to high school students to earn service learning credits by assisting children with developmental disabilities in inclusive environments.
- *Background Information:* Increasingly high schools throughout the country are requiring their students to earn community or service learning credits prior to graduation. In most circumstances, students are able to receive their credit hours by volunteering their time and skills in a wide range of community settings with the approval of the appropriate school personnel. This trend proposes a unique opportunity and a potential resource for families and agencies desiring to support children with disabilities in inclusive educational and recreational settings.

With a little training and on-going supervision, high school students can provide a valuable set of capable hands to support children with disabilities in activities and environments where paid professionals are limited or not available to families. Additionally, the non-material benefits of the formation of a relationship between a child with developmental disabilities and a young adult are endless to all involved parties. For example, the high school students will gain insights into the lives and dreams of individuals with disabilities that will carry into their future professional and private lives in the adult world. The children with disabilities will also have the opportunity to develop a friendship with an individual who can blend into their environment and even be looked up to by the children's peers, in a manner that few adults can achieve.

- *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following activities and desired outcomes:
- Developing and implementing a model program for recruiting, preparing, and supporting high school students to work with children who have developmental disabilities and their families;
- Fostering partnerships between State Developmental Disabilities Networks (the Councils, Protection and Advocacy Systems, and University Centers), private and public high schools, community volunteer groups/organizations, service coalitions, businesses, and agencies to support and promote service learning opportunities with individuals who experience disabilities;
- Identifying and/or developing materials for high schools on professional opportunities and career paths in supporting individuals with developmental disabilities and their families, including educators and direct support workers;
- Building the capacity of community volunteer groups/organizations and high school service learning programs to include and support individuals with developmental disabilities and their families;
- Identifying existing model programs, best practices, and resources for high school students providing assistance to children with disabilities and their families;
- Providing training, guidance, supervision, and mentoring to high school students volunteering to assist children with developmental disabilities in inclusive community, recreational, and/or educational settings;
- Developing and disseminating educational and recruiting resources on the benefits of high school students being involved in the lives of children with developmental disabilities and their families for school high school administrators, educators, guidance counselors, volunteer coordinators, students, and parents; and
- Designing and disseminating web-based technical assistance materials on training and supporting high school students to assist children with developmental disabilities in inclusive environments.
- Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:
- Involvement of consumers/self-advocates in planning and implementation;
- Key project personnel whom have direct life experience with living with a disability;
- Strong advisory components that consist of a majority of individuals with disabilities;
- A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;
- Research reflecting the principles of participatory action;
- Cultural competency;
- 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 with disabilities and their families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;
- 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 (Public Law 102–569);
- Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;
- Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;
- Develop and establish practices and programs beyond the project period from ADD;
- Dissemination of models, products, best practices, and strategies to the disability networks and others;
- Widespread distribution of grant funded 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; and
- Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion 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 following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application 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 applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

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 structured, 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 it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

- *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover 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.
- *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/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, 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:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *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.

Fiscal Year 2002 Priority Area 2: Creating and Celebrating One Community for All Citizens

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies, including a consortia of some or all of the above.

• *Purpose:* To build and support local communities of diverse citizens where individuals with developmental disabilities feel welcome and able to make contributions.

• *Background Information:* Throughout our Nation's history, America has taken great pride in the strength and diversity of its communities. Citizens of such a free land have the right, opportunity, and responsibility to work together in partnerships and coalitions to address their collective community of needs. Yet, most formal and informal groups elect to pledge their alliance to organizations with the mission to assist similar populations of citizens.

The end result is organizations and agencies working with one group of citizens rarely extend invitations of partnerships and coalitions to agencies and organizations assisting another segment of the community with similar issues and needs. As long as this standard of doing business remains the dominant practice, persons with developmental disabilities will continue to be segregated into separate programs, treated differently by their peers, and generally feel isolated from their own community. Additionally, generic service providers and business owners will continue to view the needs of individuals with the most significant disabilities as being "too special" to address and beyond their capacity and/or expertise.

In light of this, ADD is seeking applications to build, document, and disseminate information on community-based coalitions and grassroots efforts around pressing community needs that will result in increased productivity, independence, and inclusion of persons with developmental disabilities. Proposed projects should identify an Area of Emphasis (childcare, housing, education, employment, transportation, health, recreation, or quality assurance) from the DD Act of 2002 to develop community-based initiatives and coalitions that encompass the State Developmental Disabilities Network, cross-disability groups, and agencies and organizations with traditionally a non-disability focus. Example of agencies, groups, and organizations with traditionally a non-disability focus include, but are not limited to, the following: Inter-Faith Coalitions, Girls' and Boys' Clubs, Care Givers Associations, Rotary Clubs, Minority Colleges and Universities (Historical Black Colleges and Tribal Universities), Commerce and Business Associations, Rural Economic Development Councils, Main Street Improvement Funds, Safe Neighborhoods Projects, Small Business Organizations, Employment Networks, Youth Recreational Programs, Outdoor Adventure Clubs, Affordable Day Care or Housing Coalitions, and Health Promotion Campaigns.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following activities and desired outcomes:

• Developing and fostering partnerships between State Developmental Disabilities Networks (the Councils, Protection and Advocacy Systems, and University Centers) and other groups, organizations, coalitions, businesses, and agencies with traditionally a non-disability focus;

• Identifying an Area of Emphasis (transportation, child care, education, housing, recreation, health, employment, or quality assurance) and supporting local and/or State coalitions between disability related groups/agencies and other community groups/organizations to create system change and/or build capacity;

• Building the capacity of community groups and organizations to include and support individuals with developmental disabilities in community, social, and civic activities;

• Identifying opportunities and resources for individuals with developmental disabilities to participate in community events, organizations, and activities;

• Providing training and mentoring to individuals with developmental disabilities to prepare them for community involvement and leadership roles;

• Developing and disseminating a guidebook or manual for State Developmental Disabilities Networks to foster partnerships and coalitions with non-disability groups, agencies, coalitions, businesses, and organizations; and

• Designing and disseminating web-based technical assistance materials on coalition building and sustainability.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities;

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• 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 with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• 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 (Public Law 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded 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; and

• Specific outcomes tied to the ADD increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion in the review process. The specific information to be included under each of these headings is described in Section G of Part lll, General lnstructions 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 following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application 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 applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

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 structured, 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 it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover 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.

• *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/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, 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:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *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.

Fiscal Year 2002 Priority Area 3: Enhancing Early Literacy and Education for Children With Developmental Disabilities

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions, or agencies, including a consortia of some or all of the above.

• *Purpose:* To identify, evaluate, and promote "Promising Practices" in inclusive early literacy and educational programs for young children with developmental disabilities.

• *Background Information:* With the emergence of welfare-to-work programs and the increase in two income families, the impact and importance of quality childcare and early education is rapidly growing in our Nation. The Americans with Disabilities Act was enacted over ten years ago and continues to expand

opportunities for children with developmental disabilities and their families to enter childcare centers. For most children, their day care and early education experiences will sharply shape how they tackle educational opportunities well into young adulthood. Ensuring and promoting quality early education environments where all children feel welcome, safe, and included is key to our Nation's children with developmental disabilities future educational success, self-confidence, and overall mental health. As a step towards improving childcare services for all children and increasing early literacy, it is imperative for a knowledge basis to be identified, developed, and fostered on best practices and disseminated throughout the country for children with developmental disabilities.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting creative projects, which include the following types of activities and desired outcomes:

• Identifying and evaluating a diverse sample of inclusive childcare providers with promising best practices in early literacy and education;

• Providing web-based, user-friendly materials and information on promising practices in early literacy and education for children with developmental disabilities;

• Developing and disseminating tools for parents of children with developmental disabilities to evaluate the quality of educational services from their childcare providers;

• Offering technical assistance to childcare providers on promising practices in inclusive education and early literacy;

• Collaborating with Head Start Programs and Early Intervention Projects to strengthen early literacy skills in young children with developmental disabilities;

• Collecting data on the impact of early literacy programs on and the unmet needs of children with developmental disabilities;

• Identifying and promoting after school care for young children with developmental disabilities that include an educational component;

• Increasing the parental involvement of young children with developmental disabilities in early literacy and education programs; and

• Promoting and establishing partnerships between parent advocacy organizations, childcare providers, disability-related groups, foundations/groups interested in early literacy, and others to improve early literacy in children with developmental disabilities.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• 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 with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• 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 (Public Law 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded 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; and

• Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion 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 following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application 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 applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

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 structured, 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 it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

• *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover 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.

• *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/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, 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:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *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.

Fiscal Year 2002 Priority Area 4: Increasing Access in Rural Communities With Individuals Who Have Developmental Disabilities

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions, or agencies, including a consortia of some or all of the above.

• *Purpose:* To identify, develop, and promote inclusive transportation opportunities and coalitions in rural communities with individuals who experience developmental disabilities.

• *Background Information:* Improving and expanding the Department of Health and Human Services programs in rural communities is a priority of Secretary Thompson's Administration and the President's New Freedom Initiative is a national emphasis to enhance the quality of life for Americans with disabilities. For individuals with developmental disabilities residing in rural communities, the lack of reliable, dependable, affordable transportation remains their greatest barrier to achieving self-sufficiency and becoming an inclusive member of their community. The size of the general population in most rural communities is not believed to be ample to financially support on-going public transportation systems. Where taxi companies do exist in the rural community, the expense of taking private taxis on a routine basis for most individuals with developmental disabilities is cost prohibited. Access to transportation is a community issue, which requires creative, collaborative, local solutions.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting creative projects, which include the following types of activities and desired outcomes:

• Identifying and evaluating a diverse sample of promising programs and best practices in providing inclusive transportation in rural communities;

• Organizing and hosting a National Summit on transportation for individuals with developmental disabilities residing in rural communities;

• Designing and offering web-based, user-friendly materials and information on promising practices in providing inclusive transportation services to individuals with developmental disabilities in rural communities;

• Identifying funding resources and opportunities for the development of and on-going costs associated with delivering inclusive transportation services in rural communities;

• Collecting and compiling data on the impact of barriers to transportation in rural areas for individuals with developmental disabilities on their productivity, independence, and inclusion, as well as the local economy, their community, family members, and the State's health care and service systems;

• Providing technical assistance to rural communities on how to develop and/or expand model programs for delivering inclusive transportation services; and

• Promoting and establishing partnerships between consumer/parent advocacy organizations, transportation providers, disability-related groups, public/private entities, other groups serving populations who experience transportation barriers, (such as the elderly, individuals living in poverty, and migrant workers), and others to improve access to transportation services for individuals with developmental disabilities in rural communities.

• Key Elements of Project Designs:

As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project designs:

- Involvement of consumers/self-advocates in planning and implementation;
- Key project personnel whom have direct life experience with living with a disability;
- Strong advisory components that consist of a majority of individuals with disabilities;
- A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;
- Research reflecting the principles of participatory action;
- Cultural competency;
- 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 with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;
- 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 (P.L. 102–569);
- Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;
- Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;
- Develop and establish practices and programs beyond the project period from ADD;
- Dissemination of models, products, best practices, and strategies to the disability networks and others;
- Widespread distribution of grant funded 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; and
- Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion 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 following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial. institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information: (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application 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 applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

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 structured, 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 it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

- *Project Duration:* ADD is soliciting applications for project periods up to one year (12 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover 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.

• *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/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, 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:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

• *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.

Fiscal Year 2002 Priority Area 5: Expanding Positive Youth Development Activities for Young People With Developmental Disabilities

• *Eligible Applicants:* Community Colleges. (While applicants competing under this Priority Area are encouraged to work in partnership with disability-related organizations and groups, the led grantee for these projects will be required to submit documentation of their legal status as a Community College to ADD.)

• *Purpose:* To expand youth development activities and provide positive community college experiences for young adults with developmental disabilities.

• *Background Information:* Community colleges represent a viable, active resource for our Nation with the potential to positive impact the lives of individuals with developmental disabilities and their families at the local level. According to the American Association of Communities Colleges' (AACC) web site, America has a total of 1,166 community colleges (1,004 public institutions and 147 independent institutions) providing quality, affordable higher education to over 10 million students annually. In a consumer satisfaction survey, 95% of businesses and organizations that make use of the services offered through community colleges would recommend the workforce education and training programs to their colleagues. Additionally, it is reported that 65% of our Nation's new healthcare workers each year receive their training at community colleges and 48% of community colleges offer welfare-to-work programs.

• *Minimum Requirements for Project Design:* ADD is particularly interested in supporting projects, which include the following types of activities and desired outcomes:

• Identifying, promoting, and establishing collaborative initiatives among community colleges, Department of Labor's "One Stop Centers," Vocational Rehabilitation Agencies, and disability-related groups;

• Expanding and/or developing community college based models for offering positive college experiences to youth with developmental disabilities;

• Developing and offering non-traditional and innovative career developmental programs for persons with disabilities;

• Identifying, promoting, and/or forming community-based employment networks to assist young people with developmental disabilities in securing paid internships and jobs; and

• Exploring offering training to direct support workers while supporting college students with developmental disabilities to achieve their educational and vocational goals.

• Key Elements of Project Designs: As a general guide, ADD expects to fund only PNS proposals that incorporate the following elements in their project design:

• Involvement of consumers/self-advocates in planning and implementation;

• Key project personnel whom have direct life experience with living with a disability;

• Strong advisory components that consist of a majority of individuals with disabilities;

• A structure where individuals with disabilities make real decisions that determine the activities and outcomes of the grant;

• Research reflecting the principles of participatory action;

• Cultural competency;

• 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 with disabilities and families from multicultural backgrounds, rural and inner-city areas, migrant, homeless, and refugees;

• 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 (Public Law 102–569);

• Collaboration with other organizations, groups, agencies, and foundations through partnerships and coalitions;

• Capacity to communicate and disseminate information and technical assistance through e-mail and other effective, affordable, and accessible forms of electronic communication;

• Develop and establish practices and programs beyond the project period from ADD;

• Dissemination of models, products, best practices, and strategies to the disability networks and others;

• Widespread distribution of grant funded 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; and

• Specific outcomes tied to increasing the independence, productivity, integration and inclusion of individuals with developmental disabilities built into the project.

Evaluation Criteria: Four criteria will be used to review and evaluate each application. Each criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight possible for each criterion 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 following information: (a) The need for assistance, (b) the objectives of the proposed project, (c) the precise location of the proposed project, and (d) the area to be served by the proposed project.

The applicant may accomplish this best by: (a) Pinpointing the relevant physical, economic, social, financial, institutional, or other problems requiring a solution; (b) demonstrating the need for the assistance; (c) stating

the principal and subordinate objectives for the proposed project; (d) providing supporting documentation and/or other testimonies from concerned individuals and groups other than the applicant; (e) providing relevant data based on research or planning studies, and (f) including maps and other graphic aids.

Criterion 2: Results or Benefits Expected (20 points)

The expected results and benefits of the proposed project should be consistent with the objectives of the application. The application must state the project's anticipated contributions to policy, practice, theory and/or research. The proposed project costs should be reasonable in view of the expected results.

Criterion 3: Approach (35 points)

The applicant must outline a sound, workable, and detailed plan of action, pertaining to the goals and objectives of the proposed project. Activities should be identified in chronological order, with target dates for accomplishment and the key personnel responsible for completing the activity. The plan of action should also clearly identify and delineate the roles and involvement of each of the proposed project's partners, collaborators, and/or sub-grantees.

The plan of action should involve the following types of information; (a) How the work will be accomplished; (b) factors that might accelerate or decelerate the work; (c) reasons for taking this approach as opposed to other possibilities; and (d) descriptions of innovations and/or unusual features (such as technological or design innovations, reductions in cost and/or time, or extraordinary community involvement). Additionally, the applicant must provide a discussion of how the expected results and benefits will be evaluated for the proposed project. This discussion should explain the methodology that will be used to determine if the needs identified and discussed in the application 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 applicant must describe the relationship between this project and other work that is planned, anticipated, or currently under way by the applicant.

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 structured, 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 it may describe the competence of the project team and its demonstrated ability to produce final products that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

- *Project Duration:* ADD is soliciting applications for project periods up to two years (24 months) under this Priority Area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 24 months. Applications for continuation grant funds beyond the one-year budget period, but within the project period for the Priority Area, will be entertained, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued or carryover 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.
- *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/ADD share and the non-Federal share. Cash or in-kind contributions may meet the non-Federal share, 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:* ADD anticipates funding up to five projects under this Priority Area in FY 2002. Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.
- *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 Program Announcement. An application package, containing all of the federal required forms, can be obtained by April Myers, Program Specialist: ADD, 370 L'Enfant Promenade SW, Washington, DC, 20447, 202/690–5985; *http://www.acf.dhhs.gov/programs/add*; or *AMyers@acf.hhs.gov*.

Potential applicants should read this section carefully in conjunction with the information contained within the specific Priority Area under which their application is being submitted. The Priority Area 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 state single point of contact (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 Executive Order 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 that may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF/ADD, 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 can be found on the OMB website at *http://www.whitehouse.gov/omb/grants/spoc* or by contacting your State Governor's office.

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. The Council review comments are not required concurrently with the grant application, but must be received by ADD prior to the award process. 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 April Myers, ADD, 370 L'Enfant Promenade SW, Mailstop 300F, Washington, DC, 20447, (202) 690–5985.

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 Priority Area 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 ACF/ADD 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 Priority Area, 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 Priority Area 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 Priority Area 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?" If 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?" If no, Check the appropriate box if the application is not covered by Executive Order 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, Parts 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/ADD 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 attachments (such as charts, references/footnotes, tables, maps, exhibits, etc.) and letters of support 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 all attachments, must not exceed 60 pages. The federally required forms should not be count towards the total number of pages. The 60 page limit will be strictly enforced and reviewers will be instructed to not evaluate the contents of the applications beyond the first 60 pages of text. 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 a 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 Priority Area are packaged separately;
—Applications must specifically identify one Priority Area to compete under on the first page of the application.
—Applications for different Priority Areas must be package and identified separately;
Application is from an organization that is eligible under the eligibility requirements, defined in the Priority Area description;
—Application length does not exceed 60 pages, including attachments and excluding federally required forms.

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 (Public Law 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.

Any federal 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 23, 2002.

Patricia Morrissey,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 02–13427 Filed 5–29–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0052]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Temporary Marketing Permit Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by July 1, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i) (OMB Control Number 0910–0133)—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food "[w]henever * * * such action will promote honesty and fair dealing in the interest of consumers * * *." Under section 403(g) of the act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate

commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) specifies the information that a firm must submit to FDA to obtain a temporary marketing permit. The information required in a temporary marketing permit application under §130.17(c) enables the agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions of standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
130.17(c)	7	1	7	25	175
130.17(i)	4	2	8	2	16
Total					191

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on the agency's experience with applications received October 1, 1998, through September 30, 2001, and information from firms that have submitted recent requests for temporary marketing permits.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13589 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0215]

Agency Information Collection Activities; Proposed Collection; Comment Request; Export of FDA Regulated Products—Export Certificates

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed information collection requirements imposed on firms that intend to export to countries that require an export certificate as a condition of entry for FDA regulated products.

DATES: Submit written or electronic comments on the collection of information by July 29, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Requesting Export Certificates for FDA Regulated Products under U.S.C. Sections 801(e) and 802—New Collection

FDA is requesting approval from the Office of Management and Budget (OMB) for the collection of information from the public associated with the export of FDA-regulated products as indicated in sections 801(e) and 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 381(e) and 382), as amended.

In April 1996, a new law entitled "The FDA Export Reform and Enhancement Act of 1996" was enacted. It was designed to ease restrictions on exportation of unapproved products regulated by FDA and to facilitate such exportation by provide foreign governments certificates verifying that the products may be legally exported. Specifically, section 801(e)(4) of the act provides that persons exporting certain FDA-regulated products may request that FDA certify that the products meet the requirements of section 801(e) or

802 of the act, or other requirements of the act. Section 801(e)(4) of the act requires FDA to issue export certificates within 20 days of receipt of the request and to charge firms up to $175 for the certificates.

FDA has developed seven types of certificates that satisfy the requirements of section 801(e)(4)(B) of the act: (1) Certificates to foreign governments are issued for legally marketed products that are in compliance with the requirements of the act; (2) certificates of exportability are for the export of products that cannot be marketed legally in the United States, but meet the requirements of section 801(e) or 802 of the act and may be exported legally; (3) certificates of a pharmaceutical product are used for the export of drug products that are legally marketed in the United States. They conform to the format established by the World Health Organization (WHO) and attest to the acceptable current good manufacturing practice status of the manufacturing facility of the drug product; (4) nonclinical research use only certificates for the export of nonclinical research use only product, material, or component that is not intended for human use which may be marketed in and legally exported from the United States under the act; (5) certificate of free sale; (6) health certificates for food/feed; and (7) specified risk materials of bovine, ovine, and caprine origin certificate.

FDA has relied and will continue to rely on information provided by manufacturers for all types of export certificates. Manufacturers are requested to state that they are in compliance with all applicable requirements of the act at the time that they submit their request to the appropriate center.

FDA will check all information submitted by firms in support of their certificates and any suspected case of fraud will be referred to FDA's Office of Criminal Investigations for followup. Firms making or submitting false statements on any documents submitted to FDA may be violating the United States Code title 18, chapter 47, section 1001 and be subject to penalties including up to $250,000 in fines and up to 5 years imprisonment.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Centers	No. of Respondents	Annual Frequency Per Response	Total Annual Responses	Hours per Response	Total Hours
Center for Biologics Evaluation and Research	1,479	1	1,479	1	1,479
Center for Drug Evaluation and Research	4,542	1	4,542	1	4,542
Center for Devices and Radiological Health (CDRH)	3,500	1	3,500	2[2]	7,000[2]
Center for Veterinary Medicine	621	1	621	1	621
Total	10,142		10,142		13,642

[1] There are no capital costs or operating and maintenance costs associated with this collection of information. The above estimates are based on each center's latest calendar year counts.

[2] Based on the CDRH policy of allowing multiple devices to appear on the certificate.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13585 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0208]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Enforcement Notifications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in existing FDA regulations governing State enforcement notifications.

DATES: Submit written or electronic comments on the collection of information by July 29, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250),

Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

State Enforcement Notifications—21 CFR 100.2(d) (OMB Control Number 0910–0275—Extension)

Section 310(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 337(b)) authorizes States to enforce certain sections of the act in their own names, but provides that States must notify FDA before doing so. Section 100.2(d) (21 CFR 100.2 (d)) sets forth the information that a State must provide to FDA in a letter of notification when it intends to take enforcement action under the act against a particular food located in the State. The information required under § 100.2(d) will enable FDA to identify the food against which the State intends to take action and advise the State whether Federal action has been taken against it. With certain narrow exceptions, Federal enforcement action precludes State action under the act.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.2(d)	1	1	1	10	10

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.2(d) is insignificant because enforcement notifications are seldom used by States. During the last 3 years, FDA has not received any enforcement notifications. Since the enactment of section 403A(b) of the act (21 U.S.C. 343–1(b)) as part of the Nutrition Labeling and Education Act of 1990, FDA has received only a few enforcement notifications. Although FDA believes that the burden will be insignificant, it believes these information collection provisions should be extended to provide for the potential future need of a State government to submit enforcement notifications informing FDA when it intends to take enforcement action under the act against a particular food located in the State.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13587 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0053]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Devices; State Petitions for Exemption From Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by July 1, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

State Petitions for Exemption From Preemption—21 CFR 100.1(d) (OMB Control Number 0910–0277)—Extension

Under section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343–1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard of identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard of identity requirement satisfies the criteria of section 403A(b) of the act for

granting exemption from Federal preemption.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.1(d)	1	1	1	40	40

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is insignificant because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, FDA has not received any new petitions; therefore, the agency estimates that one or fewer petitions will be submitted annually. Because § 100.1(d) implements a statutory information collection requirement, only the additional burden attributable to the regulation has been included in the estimate. Although FDA believes that the burden will be insignificant, it believes these information collection provisions should be extended to provide for the potential future need of a State or local government to petition for an exemption from preemption under the provisions of section 403(A) of the act.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13588 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Safety and Effectiveness of Products for the Treatment of Naturally Occurring Human Plague (Bubonic, Pneumonic, Meningitic, or Septicemic); Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is announcing its Office of Pediatric Drug Development and Program Initiatives (OPDDPI) grant program for fiscal year (FY) 2002. FDA is announcing the expected availability of FY 2002 funds for awarding grants to support clinical trials on the safety and effectiveness of drug products for the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic) caused by *Yersinia pestis*. This grant program is part of FDA's counter-terrorism efforts.

DATES: The application receipt date is July 29, 2002.

ADDRESSES: Application forms are available from, and completed applications should be sent to: Rosemary Springer, Grants Management Specialist, Division of Contracts and Procurement Management (HFA–522), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7182, rspringe@oc.fda.gov. Application forms can also be found at http://www.nih.gov/grants/phs398/forms_toc.html. Please do not send applications to the Center for Scientific Review (CSR), National Institutes of Health (NIH). Applications mailed to CSR and not received by FDA in time for orderly processing will be returned to the applicant without consideration. (Note: completed applications that are hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857.) FDA is unable to receive applications electronically.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management issues of this notice: Rosemary Springer (see **ADDRESSES**).

Regarding the programmatic issues of this notice: Joanne M. Holmes, Office of Pediatric Drug Development and Program Initiatives (HFD–950), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2350, e-mail: holmesj@cder.fda.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the expected availability of FY 2002 funds for awarding grants to support clinical trials on the safety and effectiveness of drug products for the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic). Subject to the availability of FY 2002 funds, it is anticipated that $2.1 million should be available. FDA anticipates making up to three awards each for up to $700,000 (direct and indirect costs). Funding will be provided one time at the beginning of the project and will cover both years of the project period. The budget and project periods will coincide for these awards. These awards will start before September 30, 2002.

FDA will support the clinical studies covered by this notice under the authority of section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103. The Public Health Service (PHS) strongly encourages all grant recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

FDA is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2010," a national effort to reduce morbidity and mortality and to improve the quality of life. Applicants may obtain a hard copy of the "Healthy People 2010" objectives, vols. I and II, conference edition (B0074) for $22 per set, by writing to the Office of Disease Prevention and Health Promotion (ODPHP) Communication Support Center (Center), P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of "Healthy People 2010" is priced at $2 per copy. Telephone orders can be placed to the Center on 301–468–5690. The Center also sells the complete conference edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://www.health.gov/healthypeople/. Internet viewers should proceed to "Publications."

PHS policy is that applicants for PHS clinical research grants should include minorities and women in study populations so research findings can be of benefit to all people at risk of the disease, disorder, or condition under study. Special emphasis should be placed on the need for inclusion of minorities and women in studies of diseases, disorders, and conditions that disproportionately affect them. This policy applies to research subjects of all ages. If women or minorities are

excluded or poorly represented in clinical research, the applicant should provide a clear and compelling rationale that shows inclusion is inappropriate.

I. Program Research Goals

OPDDPI has as one of its goals the identification and facilitation of development of drug products that may be used in the treatment of conditions caused by agents released in a terrorist event. These agents can be of a pathogenic, radiological, or chemical nature.

To ensure that the needs of the public health, including special populations, are met, it is necessary to have an array of approved drug products available and labeled to treat such conditions. One approach to facilitating drug product availability is to support clinical research to determine if drug products approved for another indication are safe and effective for use in an indication related to terrorism and to utilize such information to provide appropriate dosing and use information in the label. All funded studies are subject to the requirements of the Federal Food, Drug, and Cosmetic Act (the act) and regulations issued under it.

Although gentamicin is not FDA approved for treatment of pneumonic plague, the Center for Civilian Biodefense Studies Working Group on Civilian Biodefense has recommended it along with streptomycin as a preferred therapy. FDA obtained from the Centers for Disease Control and Prevention (CDC) at Fort Collins, CO, the limited data on all reported U.S. pneumonic plague cases, both primary and secondary, from the 1950s to the present. Because of multiple confounders in this limited population and because no patients received gentamicin alone, no conclusions could be reached to support labeling gentamicin as monotherapy for pneumonic plague. Therefore, the goal of FDA's OPDDPI grant program is the clinical development of products for use in plague (bubonic, pneumonic, meningitic, or septicemic). FDA provides grants for clinical studies that will either result in or substantially contribute to the addition of a plague indication to gentamicin. Applicants should keep this goal in mind and must include an explanation in the application's "Background and Significance" section of how their proposed study will either help gain product approval of this indication or provide essential data needed for product development. The applicant should provide a summary of any meetings or discussions about the clinical study that have occurred to date with FDA review division staff as an appendix to the application.

Except for medical foods that do not need premarket approval, FDA will only consider awarding grants to support premarket clinical studies to find out whether the products are safe and effective for approval under the act (21 U.S.C. 301 *et seq.*) or under section 351 of the PHS Act (42 U.S.C. 262). All studies of new drug products must be conducted under the FDA's investigational new drug (IND) procedures. Although gentamicin is an approved product, studies of approved products to evaluate new indications must be conducted under an IND to support a change in labeling. (See Program Review Criteria in section V.B of this document for important requirements about IND status of products to be studied under this grant.)

Studies proposed for this grant must be in phase 2 or phase 3 of investigation. Phase 2 trials include controlled clinical studies conducted to evaluate the effectiveness of the product for a particular indication in patients with the disease or condition and to determine the common or short-term side effects and risks associated with it. Phase 3 trials gather more information about effectiveness and safety that is necessary to evaluate the overall risk-benefit ratio of the product and to provide an acceptable basis for physician labeling.

Applications must propose a controlled clinical trial of gentamicin versus an antibiotic already approved for plague (doxycycline or streptomycin) in the treatment of human plague (bubonic, pneumonic, meningitic, or septicemic). Historical data from untreated patients will be considered as the negative control. A plan to obtain a minimum of 30 plague-confirmed patients per arm is required. The diagnosis of plague should be confirmed by culture and/or serology. The applicant must provide supporting evidence that the product to be studied is available to the applicant in the form and quantity needed for the clinical trial. The applicant must also provide supporting evidence that the patient population has been surveyed and reasonable assurance that the necessary number of eligible patients is available for the study. Funds may be requested in the budget to travel to FDA for meetings with review division staff about the progress of product development.

II. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

All institutions engaged in human subject research supported by the Department of Health and Human Services (DHHS) must file an "assurance" of protection for human subjects with the Office for Human Research Protection (OHRP) (45 CFR part 46). Some activities carried out by a recipient under this announcement may be governed as well by the FDA Research Involving Human Subjects Committee part 50 (21 CFR part 50) and (21 CFR part 56). Applicants may wish to visit the OHRP Internet site at http://ohrp.osophs.dhhs.gov for guidance on human subjects issues. The requirement to file an assurance includes both "awardee" and collaborating "performance site" institutions. Awardee institutions are automatically considered to be engaged in human subject research whenever they receive a direct DHHS award to support such research, even where all activities involving human subjects are carried out by a subcontractor or collaborator. In such cases, the awardee institution bears ultimate responsibility for protecting human subjects under the award. The awardee is also responsible for ensuring that all collaborating institutions engaged in the research hold an approved assurance prior to their initiation of the research. No awardee or performance site may spend funds on human subject research or enroll subjects without the approved and applicable assurance(s) on file with OHRP.

Existing assurances, multiple project assurances (MPAs), cooperative project assurances (CPAs), and single project assurances (SPAs), will remain in effect through their current expiration date, or December 31, 2003, whichever comes first. However, OHRP no longer accepts changes to existing MPAs, CPAs, and SPAs. MPA, CPA, and SPA institutions should file a new Federal wide assurance with OHRP if changes are necessary. Applicants must provide certification of Institutional Review Board (IRB) review and approval for every site taking part in the study. However, this documentation need not be on file with the grants management officer, FDA before the award. Applicants should review the section on human subjects in the application kit entitled "Section C. Specific Instructions—Forms, Item 4, Human Subjects" (pp. 7 and 8 of the application kit), for IRB review requirements.

B. Key Personnel Human Subject Protection Education

The awardee institution should ensure that all key personnel receive appropriate training in their human subject protection responsibilities. Within 30 days of award, the principal investigator should provide a letter describing the human subjects protection training for each individual identified as "key personnel" in the proposed research. Key personnel include all principal investigators, coinvestigators, and performance site investigators responsible for the design and conduct of the study. The description of training should be submitted in a letter that includes the names of the key personnel, the title of the education program completed by each named personnel, and a one-sentence description of the program. This letter should be signed by the principal investigator and cosigned by an institution official and sent to the Grants Management Office. OPDDPI does not prescribe or endorse any specific education programs. Many institutions already have developed educational programs on the protection of research subjects and have made participation in such programs a requirement for their investigators. Other sources of appropriate instruction might include the online tutorials offered by the Office of Human Subjects Research, NIH at http://ohsr.od.nih.gov/ and by OHRP at http://ohrp.osophs.dhhs.gov/educmat.htm. Also, the University of Rochester has made available its training program for individual investigators. Their manual can be obtained through Centerwatch, Inc., at http://www.centerwatch.com.

C. Informed Consent

Consent forms, assent forms, and any other information given to a subject, should be sent with the grant application. Information given to the subject or his or her representative must be in language the subject or representative can understand. No informed consent, whether verbal or written, may include any language through which the subject or representative waives any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability. If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

D. Elements of Informed Consent

The elements of informed consent are stated in the DHHS regulations at 45 CFR 46.116 and § 50.25 as follows:

1. Basic Elements of Informed Consent

In seeking informed consent, the following information shall be provided to each subject.

(a) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures that are experimental.

(b) A description of any reasonably foreseeable risks or discomforts to the subject.

(c) A description of any benefits to the subject or to others that may reasonably be expected from the research.

(d) A discussion of proper alternative procedures or courses of treatment, if any, that might be helpful to the subject.

(e) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

(f) For research involving more than slight risk, an explanation of whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be gained.

(g) An explanation of whom to contact for answers to relevant questions about the research and research subject's rights, and whom to contact if the subject is injured by the research.

(h) A statement that participation is voluntary, that refusal to take part will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may stop participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Other Elements of Informed Consent

When suitable, one or more of the following elements of information shall also be provided to each subject:

(a) A statement that the particular treatment or procedure may involve risks to the subject (or the embryo or fetus, if the subject is or may become pregnant) that are unforeseeable.

(b) Anticipated circumstances under which the investigator, without regard to the subject's consent, may stop the subject's participation.

(c) Any costs to the subject that may result from participation in the research.

(d) The consequences of a subject's decision to withdraw from the research and procedures for orderly ending of participation by the subject.

(e) A statement that significant new findings developed during the research that may affect the subject's willingness to continue participation will be provided to the subject.

(f) The estimated number of subjects involved in the study.

The informed consent requirements do not intend to preempt any applicable Federal, State, or local laws that require other information to be disclosed for informed consent to be legally effective. Nothing in the notice intends to limit the authority of a physician to provide emergency medical care as permitted under applicable Federal, State, or local law.

III. Reporting Requirements

The original and two copies of the annual Financial Status Report (FSR) (SF–269) must be sent to FDA's grants management officer at two occasions during these projects. The first FSR will be due 15 months after date of award and the final FSR will be due 90 days after the end of the grant. Failure to file the FSR in a timely fashion will be grounds for suspension or termination of the grant. All grants must comply with all regulatory requirements necessary to keep active status of their IND. This includes, but is not limited to, submission of an annual report to the proper regulatory review division within FDA. Failure to meet regulatory requirements will be grounds for suspension or termination of the grant.

The program project officer will monitor grantees quarterly and will prepare written reports. The monitoring may be in the form of telephone conversations or e-mail between the project officer/grants management specialist and the principal investigator. Periodic site visits with officials of the grantee organization may also occur. The results of these reports will be recorded in the official grant file and may be available to the grantee on request consistent with FDA disclosure regulations.

In addition to annual reports submitted to the IND according to the requirements under 21 CFR 312.33, the grantee must file a final program progress report, FSR, and invention statement within 90 days after the end date of the project period as noted on the notice of grant award. Progress reports throughout the project will be required semiannually (every 6 months). These progress reports must be sent to the Grants Management Officer and should include the following cumulative and incremental counts: Patients enrolled; patients who are

culture positive for *Y. pestis*; patients with a positive seroconversion to *Y. pestis*; pneumonic, septicemic, meningitic, and/or bubonic plagues cases; patients treated; treatment outcomes; and adverse events (categorized by type and severity).

IV. Mechanism of Support

A. Award Instrument

Support will be in the form of a grant. All awards will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. The NIH's modular grant program does not apply to this FDA grant program. All grant awards are subject to applicable requirements for clinical investigations imposed by sections 505, 512, and 515 of the act (21 U.S.C. 355, 360b, and 360e), section 351 of the PHS Act (42 U.S.C. 262), and regulations issued under any of these sections.

B. Eligibility

These grants are available to any foreign or domestic, public or private nonprofit entity (including State and local units of government) and any foreign or domestic, for-profit entity. For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive grant awards.

C. Length of Support

The length of support will be for 2 years.

D. Funding Plan

It is anticipated that three new awards will be funded for up to 2 years each. Before an award will be made, OPDDPI will confirm the active status of the protocol under the IND. If the protocol is under FDA clinical hold for any reason, no award will be made. Also, if the IND for the proposed study is not active and in complete regulatory compliance, no award will be made. Documentation of IRB approvals for all performance sites must be on file with the Grants Management Office, FDA (see **ADDRESSES**), before research can begin at that site.

V. Review Procedure and Criteria

A. Review Method

Grants management and program staff will first review all applications sent in response to this request for application (RFA). A responsive application is defined as being in compliance with the program review criteria in section V.B of this document. Applications found to be nonresponsive will be returned to the applicant without further consideration.

B. Program Review Criteria

Applicants are strongly encouraged to contact FDA to resolve any questions about criteria before submitting their application. Direct all questions of a technical or scientific nature to the OPDDPI program staff and all questions of an administrative or financial nature to the grants management staff. (See the **FOR FURTHER INFORMATION CONTACT** section). Applications considered nonresponsive will be returned to the applicant unreviewed. Responsiveness criteria include the following:

1. The application must propose a clinical trial intended to provide safety and efficacy data of gentamicin for plague (bubonic, pneumonic, meningitic, or septicemic) compared to either doxycycline or streptomycin. There should be a plan to recruit a minimum of 30 plague confirmed patients per treatment arm. The diagnosis of plague should be confirmed by culture and/or serology.

2. There must be an explanation in the "Background and Significance" section of how the proposed study will either contribute to approval of gentamicin for plague (bubonic, pneumonic, meningitic, or septicemic) or provide essential data needed for product development.

3. The protocol proposed in the grant application must already be under an active IND (not under review or on hold) before the grant application deadline, described as follows:

(a) The IND with the proposed clinical protocol must be submitted to the FDA IND reviewing division a minimum of 30 days before the grant application deadline. The IND must be in active status, in compliance with all regulatory requirements and cannot have any type of FDA clinical hold placed on it at the time the grant application is submitted.

(b) The number assigned to the IND that includes the proposed study must appear on the face page of the application with the title of the project.

(c) The applicant should submit an IND verification with the application. The verification includes the IND number, the date the subject protocol was submitted to FDA for the IND review, the IND serial number (if known), and a statement that the IND contains the same protocol as proposed in the grant application and that this IND is active (not under review or on hold).

(d) Protocols that would otherwise be eligible for an exemption from the IND regulations must be conducted under an IND to be eligible for funding under this FDA grant program.

(e) If the sponsor of the IND is other than the principal investigator listed on the application, a letter from the sponsor permitting access to the IND must be submitted. Both the principal investigator named in the application and the study protocol must have been submitted to the IND.

(f) Studies of already approved products are also subject to these IND requirements.

4. The requested budget must be within the limits as stated in this request for applications. Any application received that requests support over the maximum amount allowable for that particular study will be considered nonresponsive.

5. Proposed consent forms, assent forms, and any other information given to a subject, should be included in the grant application.

6. Evidence that the product to be studied is available to the applicant in the form and quantity needed for the clinical trial must be included in the application. A current letter from the supplier as an appendix will be acceptable.

7. Applicants must follow guidelines named in the PHS 398 (Rev. 5/01) or (Rev. 4/98) grant application kit.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Consultation with the proper FDA review division may also occur during this first review to determine whether the proposed study will provide data that could result in or contribute to product approval. Responsive applications will be subject to a second review by a National Advisory Council for concurrence with the recommendations made by the first-level reviewers, and funding decisions will be made by the Commissioner of Food and Drugs.

C. Scientific/Technical Review Criteria

The ad hoc expert panel will provide the first review. The application will be judged on the following scientific and technical merit criteria:

1. The soundness of the rationale for the proposed study.

2. The quality and appropriateness of the study design to include the rationale for the statistical procedures.

3. The statistical justification for the number of patients chosen for the study

(to demonstrate superiority of the gentamicin treatment arm to that of a no treatment historical control), based on the proposed outcome measures and the appropriateness of the statistical procedures for analysis of the results.

4. The adequacy of the evidence that the proposed number of eligible subjects can be recruited in the requested timeframe.

5. The qualifications of the investigator and support staff, and the resources available to them.

6. The adequacy of the justification for the request for financial support.

7. The adequacy of plans for complying with regulations for protection of human subjects.

8. The ability of the applicant to complete the proposed study within its budget and within time limits stated in this RFA.

The priority score will be based on the scientific/technical review criteria cited in section V.C of this document. Also, the reviewers may advise the program staff about the appropriateness of the proposal to the goals of the OPDDPI grant program described under Program Research Goals in section I of this document.

VI. Submission Requirements

The original and two copies of the completed Grant Application Form PHS 398 (Rev. 5/01) or (Rev 4/98) or the original and two copies of the PHS 5161–1 (Rev. 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Rosemary Springer (see **ADDRESSES**). State and local governments may use the PHS 398 (Rev. 5/01) or (Rev. 4/98) application form instead of the PHS 5161–1. The application receipt date is July 29, 2002.

Other than evidence of final IRB approval, no material will be accepted after the receipt date. The mailing package and item two of the application face page should be labeled, "Response to RFA–FDA–CDER–02–2".

VII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, from 8 a.m. to 4:30 p.m., Monday through Friday, by the established receipt dates. Applications will be considered received on time if sent or mailed by the receipt dates as shown by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.) Do not send applications to the Center for Scientific Research (CSR), NIH. Any application sent to NIH that is then forwarded to FDA and received after the applicable due date will be judged nonresponsive and returned to the applicant. Applicants should know FDA does not adhere to the page limits or the type size and line spacing requirements imposed by NIH on its applications. FDA is unable to receive applications electronically.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/01) or (Rev. 4/98). All "General Instructions" and "Specific Instructions" in the application kit should be followed except for the receipt dates and the mailing label address. Do not send applications to the CSR, NIH. Applications from State and local governments may be sent on Form PHS 5161–1 (Rev. 7/00) or Form PHS 398 (Rev. 5/01) or (Rev. 4/98). The face page of the application should reflect the request for applications number RFA–FDA–CDER–02–2. The title of the proposed study should include the name of the product (gentamicin versus either doxycycline or streptomycin) and the disease/disorder (human plague) to be studied and the IND number. The format for all following pages of the application should be single-spaced and single-sided. Data information included in the application will generally not be publicly available prior to the funding of the application. Data included in the application may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61) even after funding has been granted. To designate information that an applicant believes to be trade secret or confidential commercial information that remains exempt from disclosure after funding, sponsors should use the legend below. Information collection requirements requested on Form PHS 398 (Rev. 5/01) and (Rev. 4/98) has been sent by the PHS to the Office of Management and Budget (OMB) and was approved and assigned OMB control number 0925–0001.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by the applicant as containing restricted information shall not be disclosed to the public or used except for evaluation purposes.

Dated: May 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–13461 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 13, 2002, from 8 a.m. to 5:30 p.m., and on June 14, 2000, from 8 a.m. to 1:30 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 13, 2002, the following committee updates are tentatively scheduled: (1) End user notification, and (2) human immunodeficiency virus (HIV) rapid tests. The committee will hear an informational presentation on the shortage of western blot tests for HIV and electronic submission of biological

license applications (BLAs), and discuss and provide recommendations on standards for recovered plasma. In the afternoon, the committee will hear presentations, discuss, and make recommendations on the uniform donor history questionnaire. On June 14, 2002, the following committee updates are tentatively scheduled: (1) Summaries of FDA/Plasma Protein Therapeutic Association workshop on comparability of plasma derivatives, and (2) the American Association of Blood Bank conference on oxygen therapeutics. The committee will hear an informational presentation on premarket submissions: In-vitro diagnostic software and instruments. The committee will hear presentations, discuss, and make recommendations on the warning label for hetastarch and bleeding.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 3, 2002. Oral presentations from the public will be scheduled between approximately 12:30 p.m. and 1 p.m. and between approximately 4 p.m. and 4:30 p.m. on June 13, 2002; and between approximately 12 noon and 12:30 p.m. on June 14, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 3, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Linda A. Smallwood or Pearline K. Muckelvene at 301–827–1281 at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the June 13 and 14, 2002, Blood Products Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Blood Products Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13586 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 23 through July 25, 2002, from 8:30 a.m. until 4:30 p.m.

Location: Sheraton College Park Hotel, Salons A, B, and C, 4095 Powder Mill Rd., Beltsville, MD 20705, 301–937–4422.

Contact Person: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–006), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2397, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting.

Agenda: The purpose of the meeting is to discuss FDA's consumer advisory regarding methyl mercury and seafood.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 11, 2002. Oral presentations from the public will be scheduled between approximately 4:30 p.m. and 5 p.m. on July 23, 2002, and between approximately 1:30 p.m. and 2 p.m. on July 24, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 11, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Catherine DeRoever at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13584 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 20, 2002, from 9 a.m. to 6 p.m. and june 21, 2002, from 8:30 a.m. to 2 p.m.

Location: Holiday Inn, Ballrooms A and B, 10000 Baltimore Ave., College Park, MD 301–345–6700.

Contact Person: Constance J. Hardy, Center for Food Safety and Applied Nutrition (HFS–811), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–

436–1433, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting

Agenda: The purpose of this meeting is to discuss the scientific issues and principles involved in assessing and evaluating whether a "new" infant formula supports normal physical growth in infants when consumed under its intended conditions of use. This is the second meeting of a series of advisory committee meetings to discuss the scientific issues involved in evaluating whether a new infant formula meets quality factors as required under section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a).

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 14, 2002. Oral presentations from the public will be scheduled on June 20, 2002, between approximately 11 a.m. and 3 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 17, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Constance J. Hardy at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13590 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Transmissible Spongiform Encephalopathies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Transmissible Spongiform Encephalopathies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 26, 2002, from 8 a.m. to 5:30 p.m.; and June 27, 2002, from 8:30 a.m. to 12 noon.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: William Freas or Sheila D. Langford, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12392. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 26, 2002, the committee will discuss validation of procedures to prevent contamination and cross-contamination with transmissable spongiform encephalopathies agents of human tissue intended for transplantation. In the afternoon the committee will discuss the "FDA Draft Guidance on Preventive Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and Variant Creutzfeldt-Jakob Disease (vCJD) by Human Cells, Tissues, and Cellular and Tissue-Based Products." On June 27, 2002, the committee will listen to updates on: (1) Implementation of blood donor deferrals for risk of vCJD; (2) recent reports of infectivity detected in blood of sheep experimentally infected with bovine spongiform encephalopathies and scrapie agents; and (3) recent reports of abnormal prion proteins and infectivity detected in muscles of experimentally infected mice.

Procedure: On June 26, 2002, from 8 a.m. to 2:15 p.m. and from 3 p.m. to 5:30 p.m.; and on June 27, 2002, from 8:30 a.m. to 12 noon, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 19, 2002. Oral presentations from the public will be scheduled between approximately 12:15 p.m. and 1:15 p.m. on June 26, 2002; and between 10:30 a.m. and 11:30 a.m. on June 27, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 21, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 26, 2002, from 2:15 p.m. to 3 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact William Freas or Sheila D. Langford at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–13591 Filed 5–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National

Advisory body scheduled to meet during the month of June 2002.

Name: National Advisory Council on the National Health Service Corps.

Dates and Times: June 6, 2002; 5 p.m.–7 p.m.; June 7, 2002; 8:30 a.m.–5 p.m.; June 8, 2002; 9 a.m.–5:30 p.m.; June 9, 2002; 8 a.m.–10:30 a.m.

Place: Sheraton Columbia Hotel, 10207 Wincopin Circle, Columbia, MD 21044–3408, (410) 730–3900.

The meeting is open to the public.

Agenda: The agenda will focus on goals set by the Council during the March 2002 meeting and the development of a set of recommendations for the management team from the Agency and the Bureau of Health Professions regarding the Administration's vision and goals for the National Health Service Corps and the designation of health professional shortage areas.

For further information contact: Tira Robinson, Division of National Health Service Corps, at (301) 594–4140.

Agenda items and times are subject to change as priorities dictate.

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13462 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2002.

Name: National Advisory Council on Nurse Education and Practice.

Date and Time: June 19, 2002, 8:30 a.m.–3:30 p.m.

Place: The Melrose Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037.

The meeting is open to the public.

Agenda: Presentations by national experts, including a panel of Council members on topics related to the nurse workforce shortage in the practice arena and best practices for retention of nurses; review of Health Professions Education Summit; and review of the draft version of the Second Report to the Secretary of Health and Human Services and the Congress.

Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Ms. Elaine G. Cohen, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1405.

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13463 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2002.

The National Advisory Committee on Rural Health will convene its forty-first meeting in the time and place specified below:

Name: National Advisory Committee on Rural Health.

Dates and Times: June 9, 2002; 10:30 a.m.–4:15 p.m.; June 10, 2002; 8:30 a.m.–3:30 p.m.; June 11, 2002; 7:30 a.m.–9:30 a.m.

Place: Sheraton El Conquistador, 10000 N. Oracle Road, Tucson, AZ 58737, Phone: 520–544–5000.

Copper Queen Plaza, 2 Copper Queen Plaza Road, Bisbee, AZ 85603–0414, Phone: 520–366–0066.

The meeting is open to the public.

Purpose: The National Advisory Committee on Rural Health provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health care services in rural areas.

Agenda: Sunday, June 9, at the Sheraton El Conquistador at 10:30 a.m. the chairperson, the Honorable David Beasley, will open the meeting and welcome the Committee members. The first plenary session will be a breakout session for the Quality and Workforce workgroups. This will be followed by a lunch program during which the Committee will hear presentations on the healthcare infrastructure and chronic disease at the Border. Lunch will not be provided to the general public. Beginning at 1:30 p.m. the presentations will include discussions by the U.S.-Mexico Border Health Commission on general health issues at the Border and a discussion on the impact of undocumented aliens on the healthcare infrastructure.

Monday, June 10, at 8:30 a.m. the Committee will depart to Bisbee, Arizona, for the remainder of the meeting. At 10:30 a.m. the Committee will tour the Copper Queen Hospital. Transportation to these locations will not be provided to the general public. From 11:30 a.m. to 3:30 p.m. at the Copper Queen Plaza the Committee will hear presentations on the effects of the closure of hospitals obstetric units on area clinics, the impact of uncompensated care from Naco and Aqua Prieta residents on border hospitals, the effects of the closure of a long-term care unit, the Emergency Medical Treatment and Active Labor Act, and obtaining healthcare resources across the border.

The final plenary session will be convened on Tuesday, June 11. Beginning at 7:30 a.m. there will be a review of the site visit and reports from the workgroups. The meeting will conclude with a discussion of what issues to raise in the Committee's meeting summary that will be sent to the Secretary. The meeting will be adjourned at 9:30 a.m.

Anyone requiring information regarding the subject Committee should contact Marcia K. Brand, Ph.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray, Office of Rural Health Policy (ORHP), (301) 443–0835. The National Advisory Committee meeting agenda will be posted on ORHP's Web site, *http://www.ruralhealth.hrsa.gov.*

Dated: May 23, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–13464 Filed 5–29–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is herey given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Clinical Research.

Date: May 28, 2002.

Time: 10 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sheryl K. Brining, Phd, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892. 301–435–0809. *Brinings@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: May 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13446 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Registries and Repository for the Evaluation of Temporomandibular Joint Implants.

Date: June 28, 2002.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Anne P. Clark, PhD, Chief, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892–7924. 301/435–0310.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13448 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Development of Innovative E-Learning Products for Worker Safety and Health Training in the Hazardous Waste and Chemical Emergency Response (RFA–ES–02–002).

Date: June 24, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Governors Inn, I–40 Exit 280 @ Davis Drive, Research Triangle Park, NC 27709.

Contact Person: Sally Eckert-Tilotta, MBA, Scientific Review Administrator, National Inst. of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709. 919/541–1446. *eckertt1 niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13441 Filed 5–19–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council, Council Review of Grants.

Date: June 10, 2002.

Open: 8:30 a.m. to 12:30 p.m.

Agenda: Directors Report, Update Reports, Concept Clearances.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: 12:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: J. Ricardo Martinez, MD, MPH, Associate Director for Program Development, Office of the Director, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bldg. 31, Rm. 5B55, Bethesda, MD 20892.

Information is also available on the Institute's/Center's home page:

www.nidcr.nih.gov/discover/nadrc/index.htm, where an agenda and any additional information for the meeting will be posed when available.

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13442 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–69, Review of RFA DE 02–006, Stem Cell in Repair/Dev. Orofacial.

Date: June 17, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, MD, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–86, Review of R44 Grants.

Date: June 26, 2002.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Room 3AN12, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–68, Review of RFA DE 02–002, Saliva oral/fluid diagnostics.

Date: June 18–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda, Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Contact Person: H. George Hausch, PhD, Acting Director, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–84, Review of R44 Gramts.

Date: July 18, 2002.

Time: 1 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892. (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13443 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R01—Application Review.

Date: May 24, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003. 301–443–9787 *etaylor@niaaa.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of Prevention and Epidemiology Alcohol Applications.

Date: June 7, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW, Washington, DC 20037.

Contact Person: Sean N. O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003. 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13444 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Services Research Review Committee.

Date: June 18–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: Martha Ann Carey, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608. 301–443–1606. *mcarey@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians; and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13445 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, R25—Grant Applications.

Date: May 24, 2002.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003. 301–443–9787. *etaylor@niaaa.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13447 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given by the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 AARR–2 50—Review of Applications responsive to RFA PAS02–031.

Date: June 3, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, N.W., Washington, DC 20009.

Contact Person: Abraham P. Bautista, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MEP 02—Radiation therapy.

Date: June 4, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–3 03.

Date: June 13, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Respiratory Physiology Study Section.

Date: June 17, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW, Washington, DC 20037–1417.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–W (46)—SAT member conflict.

Date: June 17, 2002.

Time: 8 a.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Chemical Pathology Study Section.

Date: June 17–19, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, (301) 435–3504, *fungv@csr.nih.gov.*

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Human Embryology and Development Subcommittee 1.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Experimental Cardiovascular Sciences Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Lung Biology and Pathology Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037.

Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696, *george_barnas@nih.gov.*

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Endocrinology Study Section.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102–2205.

Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043, *amirs@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, General Medicine A Subcommittee 2.

Date: June 17–18, 2002.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, (301) 435–1778, *khanm@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 4.

Date: June 17–18, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 1.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwelp@csr.nih.gov.*

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine A Subcommittee 1.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Harold M. Davidson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Medical Biochemistry Study Section.

Date: June 17–18, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue NW., Washington, DC 20036.

Contact Person: Alexander S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.

Date: June 17–19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7816, Bethesda, MD 20892, (301) 435–1716. *strudlep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–W (47)—SAT member conflict.

Date: June 17, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892. (301) 435–1174. *dhindsad@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: June 17–18, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20037.

Contact Person: Gerald L Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1—Nursing Study Section (02S).

Date: June 18–19, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1748, *mcfarlag@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–201.

Date: June 18, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard.marcus@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (11)—Electromagnetics.

Date: June 18, 2002.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientif.c Review Special Emphasis Panel, ZRG1 CDF–302.

Date: June 18, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gerhard Ehrenspeck, PhD, Scientific REview Administrator, National Institute of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5138, mSC 7840, Bethesda, MD 20892, (301) 435–1022, *ehrenspeckg@nih.csr.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PHRA 01—Molecular Modeling.

Date: June 18, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Healtli, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibson@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MEP 03—HSP and HSP-based therapy.

Date: June 18, 2002.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, Phd, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, nga@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.844, 93.837–93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 22, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–13449 Filed 5–29–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4769–N–01]

Notice of Availability of HUD Information Quality Guidelines and Request for Public Comment

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD is advising the public that its draft for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated to the public by HUD ("Information Quality Guidelines") is available for review and comment on HUD's Web site at *www.hud.gov.*

DATES: Comments on HUD's Information Quality Guidelines will be accepted through July 1, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Dorf, Director, Office of Grant Management and Compliance, Office of Administration, Department of Housing and Urban Development, Room 2182, 451 Seventh Street, SW., Washington, DC 20410–0500; telephone—(202) 708–0667 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8399.

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies." Within one year after OMB issues its guidelines, agencies must issue their own guidelines that will describe internal mechanisms by which agencies will ensure that their information meets the standards of quality, objectivity, utility and integrity. The mechanism also must allow affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines.

OMB issued its final guidelines on September 28, 2001 (66 FR 49718), but requested additional comment on one component of the OMB guidelines. The OMB guidelines addressing additional public comment were published on January 3, 2002 (67 FR 369) and republished on February 22, 2002 (67 FR 6452).

Agencies must issue their final guidelines by October 1, 2002. OMB is also requiring that agencies issue draft guidelines for public comment by May 1, 2002. The agencies' draft guidelines need not be published in the **Federal Register** but agencies should provide notification in the **Federal Register** that the draft guidelines are available on agencies' Web sites.

This notice advises the public that HUD's draft guidelines are available on its Web site for review and public comment. While the public is reviewing these guidelines and providing comment, HUD will continue to review as well. HUD will notify the public of any significant changes made as a result of internal HUD review and provide the opportunity for further public comment. By July 1, 2002, OMB is requiring agencies to submit draft guidelines to OMB for review that take into consideration public comment.

HUD welcomes your comments on the draft guidelines.

Dated: May 22, 2002.

Vickers B. Meadows,

Assistant Secretary for Administration.

[FR Doc. 02–13414 Filed 5–29–02; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex (Refuge Complex)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Intent to prepare a Comprehensive Conservation Plan and associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan and an associated Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge Complex. The Refuge Complex includes the Upper Mississippi River National Wildlife and Fish Refuge in Minnesota, Wisconsin, Iowa, and Illinois; the Trempealeau National Wildlife Refuge in Wisconsin; and the Driftless Area National Wildlife Refuge in Iowa. The Service is furnishing this notice in compliance with Service Comprehensive Conservation Plan policy and the National Environmental Policy Act and implementing regulations to achieve the following: (1) Advise other agencies and the public of our intentions; (2) Obtain suggestions and information on the scope of issues, opportunities, and concerns for inclusion in the Comprehensive Conservation Plan and Environmental Impact Statement; and (3) Solicit information from the public about archaeological sites, buildings and structures, historic places, cemeteries, and traditional use sites that could influence decisions about management of the Refuge.

DATES: Beginning in August 2002, the Service will solicit information from the public via public meetings, workshops, focus groups, and written comments. Special mailings, newspaper articles, radio announcements, and the Services Web site *http://midwest.fws.gov/planning/uppermisstop.htm* will inform people of the times and places of public involvement opportunities.

FOR FURTHER INFORMATION CONTACT: Address comments and requests for additional information to: Thomas Magnuson, Project Manager, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota 55111. Telephone: 1–800–247–1247 extension 5467.

SUPPLEMENTARY INFORMATION: It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved Comprehensive Conservation Plan. The Comprehensive Conservation Plan will guide management decisions and identify refuge goals, objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The Comprehensive Conservation Plan will provide other agencies and the public with a clear understanding of the desired future conditions of the Refuge Complex and how the Service will implement management strategies.

The Upper Mississippi River National Wildlife and Fish Refuge was established by public law in 1924 to protect and preserve habitats for migratory birds, fish, and a variety of other wildlife. The refuge extends 261 miles along the Mississippi River from the Chippewa River in Wisconsin almost to Rock Island, Illinois. It encompasses approximately 230,000 acres in parts of Minnesota, Wisconsin, Iowa, and Illinois and is a component of the Service-managed National Wildlife Refuge System. Parts of 19 counties and two Army Corps of Engineers districts are included in the Refuge. More than half of the land within the Refuge is owned by the Army Corps of Engineers. Those lands are managed by the Refuge under a cooperative agreement.

The Trempealeau Wildlife Refuge was established in 1936 to provide breeding and migration habitat for migratory birds and other wildlife. It is located in Buffalo and Trempealeau counties Wisconsin, and currently consists of 5,754 acres of land.

The Driftless National Wildlife Refuge was established in 1989 to protect and enhance populations of the federally endangered Iowa Pleistocene snail and federally threatened Northern monkshood plant. It is located in Clayton, Dubuque, Jackson, and Allamakee counties, Iowa, and currently consists of 775 acres of land.

Dated: May 2, 2002.

Marvin Moriarty,

Acting Regional Director, Region 3.

[FR Doc. 02–13288 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT—056128

Applicant: Coronas Entertainment, Bradenton, Florida.

The applicant requests a permit to export, re-export, and re-import one tiger (*Panthera tigris*) and to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

PRT–056214

Applicant: Richard W. Corzine, Jr., Sioux Falls, SD.

The applicant requests a permit to import the sport-hunted trophy of two

male bonteboks (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Marine Mammals and Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the regulations governing marine mammals (50 CFR part 18) and endangered species (50 CFR part 17). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–056326

Applicant: Dr. Graham Worthy/ University of Central Florida, Orlando, FL

Permit Type: Take for Scientific Research.

Name and Number of Animals: Manatee (Trichecus manatus) 20.

Summary of Activity to be Authorized: The applicant requests a permit for continued research regarding the metabolic rate of captive held manatees. Activities originally authorized under permit number PRT–766146.

Source of Marine Mammals: Captive held animals.

Period of Activity: Up to 5 years if authorized.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–740507

Applicant: Alaska Science Center, U.S. Geological Survey, Anchorage, AK,

Permit Type: Take for Scientific Research.

Name and Number of Animals: Northern sea otter (*Enhydra lutris lutris*), 300.

Summary of Activity to be Authorized: The applicant requests renewal and amendment of their permit authorizing the following annual activities: take up to 300 animals, including but not limited too, incidental take, capture/recapture, release, collect biological samples, tag, mark, implant, and import biological samples as part of a long term study on the species.

Source of Marine Mammals: Wild live animals and material salvaged from animals found dead, or collected as may be available through the Native Alaskan subsistence harvest.

Period of Activity: Up to 5 years if authorized.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–056324

Applicant: John D. Frost, Anchorage, AK

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994, from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–056309

Applicant: Winston Stalcup, Alpharetta, GA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 3, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13438 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–054555

Applicant: Robert Goins, Kinston, NC.

The applicant requests a permit to import a sport-hunted trophy cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of

enhancement of the survival of the species.

PRT–056627

Applicant: Robert Pat Collins, Granbury, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056536

Applicant: Charles Cochran, Plano, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056562

Applicant: Edwin Dean, Hesperia, MI.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–056814

Applicant: Lester Wollam, Continental, OH.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–054030

Applicant: National Zoological Park, Washington, DC.

The applicant requests a permit to import a male captive born maned wolf (*Chrysocyon brachyurus*) from Criadouro Conservacionista da CBMM, Araxa—Minas Gerais, Brazil for the purpose of enhancement of propagation of the species.

PRT–022729

Applicant: National Marine Fisheries Service/Southwest Region/Pacific Island Area Office, Long Beach, CA.

The applicant requests renewal of a permit to introduce from the high seas samples and/or whole carcasses of loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), leatherback sea turtle (*Dermochelys coriacea*), hawksbill sea turtle (*Eretmochelys imbricata*), olive Ridley sea turtle (*Lepidochelys olivacea*), and Kemp's Ridley sea turtle (*L. kempii*) and amendment of the same permit to include introducing from the high seas samples and/or whole carcass of short-tailed albatross (*Diomedea albatrus*) for the purpose of enhancement of the species through scientific research. This notice covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–056485

Applicant: David Hussey, Cavecreek, AZ.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

PRT–056483

Applicant: Theodore L. Priem, St. Croix Falls, WI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056418

Applicant: Stanley Wilczek, Hazleton, PA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056815

Applicant: William Dodge, Brunswick, ME.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056495

Applicant: John F. Baker, Richboro, PA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 29, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13439 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 1, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit

to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–056867

Applicant: Wilson H. Wohler, San Angelo, TX.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) from Zimbabwe for the purpose of enhancement of the survival of the species.

PRT–056833

Applicant: Jack B. Middleton, Manchester, NH.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–057016

Applicant: David M. Newcomb, Santa Fe, NM.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–051921

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to export two captive born male Baird's tapir (*Tapirus bairdii*) to Zoologico Guadalajara, Guadalajara, Mexico, for the purpose of enhancement of survival of the species through conservation education.

Marine Mammals and Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the regulations governing marine mammals (50 CFR part 18) and endangered species (50 CFR part 17).

Written data, comments, or requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: David Mann, University of South Florida, St. Petersburg, FL, PRT–051709.

Permit Type: Take for scientific research.

Name and Number of Animals: West Indian manatee (*Trichechus manatus*), 250.

Summary of Activity to be Authorized: The applicant requests a permit to record and play back manatee sounds using a hydrophone, speakers, and dataloggers deployed in the areas of Sarasota Bay, Matlacha Canals, and Crystal River. The hydrophones will record sounds from up to 30 manatees annually; play back may incidentally harass up to 20 manatees annually.

Source of Marine Mammals: Waters in the State of Florida.

Period of Activity: Up to 5 years, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–056915

Applicant: Mike J. Goodart, Alamosa, CO.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–057032

Applicant: Ronald L. Smits, Green Bay, WI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–056909

Applicant: William C. Myer, Kelseyville, CA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Viscount Melville Sound polar bear population in Canada for personal use.

PRT–057052

Applicant: Peter C. Nalos, Bakersfield, CA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: May 17, 2002.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–13440 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Endangered Species Recovery Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section

10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*). The U.S. Fish and Wildlife Service solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–794784

Applicant: Affinis Environmental Services, El Cajon, California.

The permittee requests a permit amendment to remove/reduce to possession the *Eryngium aristulatum* var. *parishii* (San Diego button celery), the *Orcuttia californica* (California orcutt grass), the *Rorippa gambellii* (Gambel's water cress), and the *Dodecahema leptoceras* (Slender-horned spineflower) in San Diego County, California in conjunction with species documentation surveys for the purpose of enhancing their survival.

Permit No. TE–004939

Applicant: Gordon Pratt, Riverside, California.

The permittee requests a permit amendment to take (live capture, handle, remove from the wild, propagate, conduct research, and release) the Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*) in Los Angeles and Riverside Counties, California in conjunction with species enhancement efforts and research for the purpose of enhancing its survival.

Permit No. TE–054395

Applicant: Bureau of Land Management, Medford, Oregon.

The applicant requests a permit to remove/reduce to possession the Fritillaria gentneri (Gentner's fritillary) in Jackson and Josephine Counties, Oregon in conjunction with species augmentation efforts for the purpose of enhancing its survival.

Permit No. TE–749872

Applicant: David Germano, Bakersfield, California.

The permittee requests a permit amendment to take (radio-tag) the giant kangaroo rat (*Dipodomys ingens*), the tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), and the blunt-nosed leopard lizard (*Gambelia sila*) in California in conjunction with ecological research throughout the range of each species for the purpose of enhancing their survival.

Permit No. TE–003483

Applicant: U.S. Geological Survey, Hawaii National Park, Hawaii.

The permittee requests a permit amendment to take (capture, collect blood, and band) the Molokai creeper (=kakawahie)(*Paroreomyza flammea*), the Molokai thrush (=oloma'o) (*Myadestes lanaiensis rutha*), the crested honeycreeper (='akohekohe) (*Palmeria dolei*), the Maui' akepa (*Loxops coccineus ochraceus*), the Maui parrotbill (*Pseudonestor xanthophyrys*), the po'ouli (*Melamprosops phaeosoma*), and the Maui nukupu'u (*Hemignathus lucidus affinis*) on the Islands of Hawaii, Kauai, Oahu, Maui, Molokai, Lanai, and Laysan in conjunction with demographic and ecological studies for the purpose of enhancing their survival.

Permit No. TE–781485

Applicant: Kurt Campbell, Temecula, California.

The permittee requests a permit amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Nevada and Arizona in conjunction with surveys for the purpose of enhancing its survival.

Permit No. TE–702631

Applicant: Regional Director, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon.

The permittee requests a permit amendment to take the Buena Vista Lake shrew (*Sorex ornatus relictus*) and remove/reduce to possession the *Hackelia venusta* (showy stickseed). Take and remove/reduce to possession activities will be conducted throughout the range of each species in conjunction with recovery efforts for the purpose of enhancing their propagation and survival.

Permit No. TE–667512

Applicant: Howard Shellhammer, San Jose, California.

The permittee requests a permit amendment to take (collect and clip hair) the salt marsh harvest mouse (*Reithrodontomys raviventris*) throughout the range of the species in conjunction with genetic research and population studies for the purpose of enhancing its survival.

Permit No. TE–055011

Applicant: Bureau of Land Management Pine Hill Preserve, Folsom, California.

The applicant requests a permit to remove/reduce to possession the *Fremontodendrom californicum* ssp. *Decumbens* (Pine Hill flannelbush) in El Dorado County, California in conjunction with population research for the purpose of enhancing its survival.

Permit No. TE–758175

Applicant: John and Jane Griffith, Calumet, Michigan.

The permittee requests a permit amendment to take (harass by survey using taped vocalizations) the least Bell's vireo (*Vireo bellii pusillus*) in Monterey, San Luis Obispo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Imperial, and Ventura Counties, California and Yuma County, Arizona in conjunction with surveys for the purpose of enhancing its survival.

Permit No. TE–005956

Applicant: U.S. Geological Survey, Biological Resources Division, Western Fisheries Research Center, Reno, Nevada.

The permittee requests a permit amendment to take (capture with minnow traps, dip nets, and seines; and harass by installing underwater video equipment) the White River spinedace (*lepidomeda albivalis*), and to take (capture, mark, and translocate) the Ash Meadows speckled dace (*Rhinichthys osculus*) in Nye County, Nevada in conjunction with surveys for the purpose of enhancing their survival.

Permit No. TE–055013

Applicant: San Bernardino National Forest, Fawnskin, California.

The applicant requests a permit to remove/reduce to possession the *Astragalus* albens (Cushenbury milk-vetch), the *Astragalus brauntonii* (Braunton's milk-vetch), the *Astragalus lentiginosus* var. *coachellae* (Coachella Valley milk-vetch), the *Astragalus tricarinatus* (triple-ribbed milk-vetch), the *Berberis nevinii* (Nevin's barberry), the *Dodecahema leptoceras* (slender-horned spineflower), the *Eriastrum densifolium* ssp. *sanctorum* (Santa Ana River wollystar), the *Eriogonum ovalifolium* var. *vineum* (Cushenbury buckwheat), the *Lesquerella kingii* ssp. *Bernardina* (San Bernardino bladderpod), the *Oxytheca parishii* var. *goodmaniana* (Cushenbury oxytheca), the *Poa atropurpurea* (San Bernardino bluegrass), the *Sidalcea pedata* (bird-foot checkerbloom), the *Taraxacum californicum* (California dandelion), and the *Thelypodium stenopetalum* (Slender-petaled mustard) in San Bernardino County, California in conjunction with species documentation surveys and restoration efforts for the purpose of enhancing their survival.

Permit No. TE–055397

Applicant: California Department of Parks and Recreation, Santa Cruz, California.

The applicant requests a permit to take (harass by survey and kill by fire) the Ohlone tiger beetle (*Cicendela ohlone*) in Santa Cruz County, California in conjunction with habitat enhancement for the purpose of enhancing its survival.

Permit No. TE–025203

Applicant: David Griffin, Jamul, California.

The permittee requests a permit amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in San Diego County, California in conjunction with demographic studies for the purpose of enhancing its survival.

Permit No. TE–821967

Applicant: Paul Galvin, Irvin, California.

The permittee requests a permit amendment to take (harass by banding) the least Bell's vireo (*Vireo bellii pusillus*) and to take (harass by survey) the California least tern (*Sterna antillarum browni*) throughout the range of each species in California in conjunction with surveys for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 1, 2002.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 02–13421 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Storm Water Retention Pond, in Volusia County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Volusia County, Public Works, Engineering Department (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize the take of two families of the threatened Florida scrub-jay, *Aphelocoma coerulescens* and the threatened eastern indigo snake, *Drymarchon corais couperi,* in Volusia County, Florida, for a period of five (5) years. A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is described further in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE054160–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to "david_dell@fws.gov". Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other 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 address, you must state this prominently at the beginning of your comments. We will not; however, 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.

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before July 1, 2002.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments and requests for the documentation must be in writing to be processed. Please reference permit number TE054160–0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313; or Ms. Jane Monaghan, Fish and Wildlife Biologist, Jacksonville Field Office, (see **ADDRESSES** above), telephone: 904/232–2580, extension 128.

SUPPLEMENTARY INFORMATION: The proposed taking is incidental to land clearing activities, road widening and storm water retention pond excavation on the 3.21-acre project site. (Project). The Project contains about 3.21 acres of occupied Florida scrub-jay habitat, and the potential exists for the entire Project site to provide habitat to the Eastern indigo snake.

Florida scrub-jays are geographically isolated from other species of scrub-jays found in Mexico and the western United States. The Florida scrub-jay is found exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub-jay population has been reduced by at least half in the last 100 years. Surveys have indicated that two families of Florida scrub-jays utilize habitat associated with the proposed storm water retention pond site along Howland Boulevard on the Project site. Construction of the storm water retention pond will likely result in death of, or injury to, Florida scrub-jay incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of habitat used for feeding and shelter.

Historically, the eastern indigo snake occurred throughout Florida and into the coastal plain of Georgia, Alabama, and Mississippi. Georgia and Florida currently support the remaining, endemic populations of eastern indigo snake. Over most of its range, the eastern indigo snake frequents a diversity of habitat types such as pine flatwoods, scrubby flatwoods, xeric sandhill communities, tropical hardwood hammocks, edges of freshwater marshes, agricultural fields, coastal dunes and human altered habitats. Due to its relatively large home range, this snake is especially vulnerable to habitat loss, degradation, and fragmentation. The wide distribution and territory size requirements of the eastern indigo snake makes evaluation of status and trends very difficult. Surveys for this species on site were negative, however the habitat is suitable. If any eastern indigo snakes are present, construction of the Project's infrastructure may result in their death or injury incidental to the carrying out of these otherwise lawful activities.

The EA considers the environmental consequences of two alternatives. The no action alternative may result in loss of habitat for Florida scrub-jay and eastern indigo snakes and exposure of the Applicant under section 9 of the Act. The proposed action alternative is issuance of the ITP with off-site mitigation. The off-site preservation alternative would provide funding for the restoration and management of 6.42 acres of occupied habitat within a 357-acre county-owned scrub habitat preserve known as the Lyonia Scrub Preserve. The affirmative conservation measures outlined in the HCP to be employed to offset the anticipated level of incidental take to the protected species are the following:

1. The impacts associated with the proposed project include 3.21 acres of impacts to occupied scrub-jay habitat for the excavation of a storm water retention pond associated with the widening of Howland Boulevard. To mitigate for the proposed impacts to occupied habitat the applicant will provide funds for the restoration and management of 6.42 acres of county owned occupied scrub habitat. This amount is based on mitigation at a ratio of 2:1 (two acres restored for every one acre impacted). Management will be conducted on a regular basis by Volusia County. After initial habitat restoration of the 6.42 acre mitigation area, the property would then be managed as part of the Lyonia Scrub Preserve, requiring preservation and management for Florida scrub-jays and eastern indigo snakes into perpetuity.

2. No construction activities would occur within 150 feet of an active Florida scrub-jay nest during the nesting season.

3. The HCP provides a funding mechanism for these mitigation measures.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: May 17, 2002.

Christine Eustis,

Acting Regional Director.

[FR Doc. 02–13454 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–600–1820–00 IA]

National Historic Oregon Trail Interpretive Center Advisory Board; Notice of Reestablishment

AGENCY: Bureau of Land Management (BLM), Oregon State Office, Interior.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972, Public Law 92–463. Notice is hereby given that the Secretary of the Interior has reestablished the Bureau of Land Management's National Historic Oregon Trail Interpretive Center Advisory Board.

The purpose of the Board will be to advise the Bureau of Land Management Vale District Manager regarding policies, programs, and long-range planning for the management, use, and further development of the Interpretive Center; establish a framework for an enhanced partnership and participation between the Bureau and the Oregon

Trail Preservation Trust; ensure a financially secure, world-class historical and educational facility, operated through a partnership between the Federal Government and the community, thereby enriching and maximizing visitors' experiences to the region; and improve the coordination of advice and recommendations from the publics served.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson Gore, Intergovernmental Affairs (640), Bureau of Land Management, 1620 L Street, NW., Room 406 LS, Washington, D.C. 20240, telephone (202) 452–0377.

Certification Statement

I hereby certify that the reestablishment of the National Historic Oregon Trail Interpretive Center Advisory Board is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: May 23, 2002.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02–13568 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–01–1220–JG–064B]

Notice of Intent To Prepare an Amendment to the California Desert Conservation Area Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an amendment to the California Desert Conservation Area (CDCA) Plan and Environmental Impact Statement (EIS) for Surprise Canyon in Panamint Mountains, Inyo County, CA.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Bureau of Land Management (BLM) proposes to amend the CDCA Plan (1980 as amended). The proposed amendment will establish or revise trail designations for off-road vehicles within the Surprise Canyon Area of Critical Environmental Concern (ACEC). The authority to designate is in accordance with 43 CFR 8342. The proposals will pertain to public lands addressed by the California Desert Conservation Area Plan in Inyo County that lie east of Highway 178 and approximately 23 miles north of the community of Trona. The proposed plan amendment will include an EIS in accordance with the National Environmental Policy Act and CFR 1610.5–5.

The EIS will evaluate a full range of alternative means of access into the Surprise Canyon ACEC. During the 30 days scoping period, the public can assist the BLM in developing the range of alternatives that will be addressed.

DATES: The public is invited to submit comments on the scope of the plan amendment and EIS. Written comments will be accepted for 30 days from the publication date of this notice in the **Federal Register**. The specific date, time, and location of public scoping meetings will be announced by the Ridgecrest Field Office.

ADDRESSES: Scoping comments in response to this notice should be sent to Hector Villalobos, Field Manager, Bureau of Land Management, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5405. Comments, including names and addresses of respondents, will be available for public review at the Ridgecrest Field Office during normal working hours (7:45 AM to 4:30 PM, except holidays), and may be published as part of the EIS or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of you comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jeffery Aardahl, Bureau of Land Management, Ridgecrest Field Office, 300 South Richmond Road, Ridgecrest CA 93555, (760) 384–5420.

SUPPLEMENTARY INFORMATION: On May 29, 2001, BLM implemented an interim closure to all motorized vehicles on Route P71 in the Surprise Canyon Area of Critical Environmental Concern. The closure will remain in effect until the plan amendment is approved and implemented.

The following are preliminary issues identified: (1) The canyon area currently does not meet the BLM's minimum standards for a properly functioning riparian system due to soil erosion and streambed alternations caused by motorized vehicle use; (2) several federal and state sensitive plant and animal species that inhabit the area are being affected; and (3) value of the canyon area for recreation, including use of motorized vehicles.

The preliminary planning criteria include: (1) The CDCA amendment will be consistent with officially approved resource related plans, policies and programs of other Federal agencies, State and local governments, and Indian Tribes; (2) the amendment process and ORV trail designations shall be conducted in compliance with the Federal Land Policy Management Act of 1976 (FLPMA), planning regulations (43 CFR 1600), ORV trail designation regulations (43 CFR 8340), BLM manual guidance, and all applicable Federal laws affecting BLM land use decisions and ORV designations; (3) the planning process shall include an EIS with a biological evaluation prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the President's Council of Environmental Quality (CEQ) regulations (40 CFR 1500), and BLM guidance.

The public is invited to submit written information to the BLM that will be used to identify issues, concerns and opportunities related to various alternative means of access in the Surprise Canyon ACEC. Those members of the public who simply want to be placed on the mailing list for this project can make such a request in writing. All such information and requests should be submitted in writing to: Field Manager, Bureau of Land Management, Ridgecrest Field Office, 300 S. Richmond Rd., Ridgecrest, CA 93555, Attn: Resources Management Branch Chief.

Digital electronic photos and maps of the Surprise Canyon area can be found at: *http://www.ca.blm.gov/ridgecrest.*

Dated: April 12, 2002.

Alan Stein,

Acting California Desert District Manager.

[FR Doc. 02–13571 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet Monday, June 24, 2002, from 8 a.m. to 5 p.m. local time, and on Tuesday, June 25, 2002 from 8 a.m. to 12 p.m. local time.

ADDRESSES: The Advisory Board will meet at the Marriott Denver Tech Center, 4900 South Syracuse Street, Denver, CO 80237.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO260, Attention: Ramona Delorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business June 14, 2002. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Janet Nordin, Wild Horse and Burro Public Outreach Specialist, at (775) 861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach Ms. Nordin at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, June 24, 2002 (8 a.m.–5 p.m.)

Call to Order & Introductions

Co-chairs Comments & Housekeeping—Robin Lohnes, Gary Zakotnik
Welcoming Remarks—Ann Morgan—CO State Director; Henri Bisson, Elena Daly, John Fend
Old Business
Approval of March 2002 Minutes—Robin Lohnes
BLM Action on March 2002 Recommendations—John Fend
Charter Renewal & 2003 Nominations Update—John Fend
Annual WH&B Specialist Meeting Overview—Tom Pogacnik

Break

Ad-Hoc Committee Report on Budget Initiative—Hilleary Bogley, Wayne Burkhardt,
Discussion of Proposed Alternatives—Larry Johnson, Gary Zakotnik

Working Lunch (Board Members/Staff Only)

Old Business (Continued)

Update on Pending Litigation—John Fend
Discussion on AML High/Low Numbers—John Fend, Tom Pogacnik

Break

Old Business (Continued)

BLM Science Advisory Board Report—Linda Coates-Markle
Update on Immunocontraception—Linda Coates-Markle
Field Applicability—Linda Coates-Markle
Public Comments—Robin Lohnes, Janet Nordin
Recap/Summary—Robin Lohnes, E K James
Adjourn; Roundtable to Follow—All
Dinner with BLM Staff (location TBA)

Tuesday, June 25, 2002

New Business

Sonora Desert Proposal—Merle Edsall

Break

Board Recommendations—Robin Lohnes, E K James
Report to Congress—Robin Lohnes, Gary Zakotnik
Next Meeting/Date/Site—All

Adjourn—Robin Lohnes

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal advisory committee management regulations (41 CFR 101–6.1015(b),) require BLM to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on June 24, 2002, at the appropriate point in the agenda. This opportunity is anticipated to occur at 4:00 p.m. local time. Persons wishing to make statements should register with the BLM by noon June 24, 2002, at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. However, if you do not want the BLM to release your name and address in response to a FOIA request, you must state this prominently at the beginning of your comment. BLM will honor your request to the extent allowed by law. BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: *Janet_Nordin@blm.gov*. Please include the identifier "WH&B" in the subject of your message and your name and address in the body of your message.

Henri R. Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 02–13476 Filed 5–29–02; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a request for emergency processing for review and clearance of questionnaires to the Office of Management and Budget (OMB). The Commission has requested OMB approval of this submission by June 3, 2002.

Effective Date: May 14, 2002.

Purpose of Information Collection: The questionnaires are for use by the Commission in connection with investigation No. 332–435, Tools, Dies, and Industrial Molds: Competitive Conditions in the United Sates and Selected Foreign Markets, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the House Committee on Ways and Means (the Committee). The Commission expects to deliver the results of its investigation to the Committee by October 21, 2002.

Summary of Proposal:

(1) *Number of forms submitted:* 2.

(2) *Title of form:* U.S. Producers' Questionnaire—Tools, Dies, and Industrial Molds: Competitive Conditions in the United States and Selected Foreign Markets: and U.S. Purchasers' Questionnaire—Questionnaire—Tools, Dies, and Industrial Molds: Competitive Conditions in the United States and Selected Foreign Markets:

(3) *Type of request:* New.

(4) *Frequency of use:* Producer/Purchaser questionnaires, single data gathering, scheduled for 2002.

(5) *Description of respondents:* U.S. firms that produce and purchase tools, dies, and industrial molds.

(6) *Estimated number of respondents:* Producers: 333; Purchasers: 100.

(7) *Estimated total number of hours to complete the forms:* Producer: 4,995 hours; Purchaser: 1,000.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the forms and supporting documents will be posted on the Commission's Internet site at *http://www.usitc.gov* or may be obtained from Karen Taylor (USITC, telephone no. (202) 708–4101). Comments about the proposal should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Desk Officer for the International Trade Commission. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone no. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

By order of the Commission.

Issued: May 24, 2002.

Marilyn Abbott,

Secretary.

[FR Doc. 02–13617 Filed 5–29–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Review)]

Fresh Tomatoes from Mexico; Import Investigation

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), 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 this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On May 2, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigation (67 FR 30962, May 8, 2002). Subsequently, the Department of Commerce extended the date for its final determination in its sunset review of the suspended antidumping duty investigation on fresh tomatoes from Mexico from May 29, 2002, to August 27, 2002 (67 FR 35099, May 17, 2002). Pursuant to 19 U.S.C. 1675(c)(5)(B), the Commission is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 24, 2002; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 26, 2002; the prehearing staff report will be placed in the nonpublic record on September 13, 2002; the deadline for filing prehearing briefs is September 24, 2002; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 3, 2002; the deadline for filing posthearing briefs is October 15, 2002; the Commission will make its final release of information on November 1, 2002; and final party comments are due on November 5, 2002.

For further information concerning this investigation see the Commission's notice cited above and 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).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: May 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–13415 Filed 5–29–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–016]

Sunshine Act Meeting

Agency Holding the Meeting: International Trade Commission.

Time and Date: June 10, 2002 at 2 p.m.

Place: Room 101, 500 E Street SW, Washington, DC 20436. Telephone: (202) 205–2000.

Status: Open to the public.

Matters To Be Considered:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. Nos. 701–TA–415 and 731–TA–933–934 (Final) (Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before June 18, 2002.)
5. Outstanding action jackets:

(1) Document No. EC–02–005: Approval of final report in Inv. No. 332–325 (The Economic Effects of Significant U.S. Import Restraints: Third Update).

(2) Document No. EC–02–006: Approval of The Year in Trade 2001, Operation of the Trade Agreements Program, 53rd Report.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: May 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–13612 Filed 5–24–02; 4:17 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Reinstatement, with change, of a previously approved collection for which approval has expired Department Annual Report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 36, page 8318 on February 22, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:

(2) Evaluate the accuracy of the agencies estimated of the burden of the proposed collection of information, including the validity of the methodology and assumptions used:

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: The title of the collection is the Department Annual Report.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form: none. Office of Community Oriented Policing Service, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local, or Tribal Government. Other: None. Progress Reports are survey instruments that the COPS Office uses to monitor the community policing activities for the Funding Accelerated for Small Towns, the Accelerated Hiring, Education and Development, and/or the Universal Hiring Grant Programs.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The estimated number of agencies that are eligible to receive and complete the Department Annual report is 6,100. The estimated amount of time required for the average respondent to complete and return the form is 1 hour.

(6) An estimate of the total public burden (in hours) associated with the collection: An estimate of the total burden hours to conduct this survey is 6,100 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: May 23, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–13555 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act

Notice is hereby given that a proposed Consent Decree in *United States, et al.* v. *Torch Energy Company, et al.* Civ. No. CV–02–3977 RSWL (Ex) (C.D. Cal), was lodged on May 16, 2002 with the United States District Court for the Central District of California.

The consent decree resolves claims under section 1002 of the Oil Pollution Act of 1990, 33 U.S.C. 2702, brought against Torch Energy Company, Nuevo Energy Company, and Black Hawk Oil & Gas Company collectively, ("Defendants"), for natural resource damages arising from the September 27, 1997 spill of oil from the offshore drilling platform named "Irene."

The proposed consent decree requires the Defendants to pay $2,397,000 for natural resource damages to the United States and State of California. The consent decree includes a covenant not to sue by the United States and State under the Oil Pollution Act.

The Department of Justice will receive, for a period of thirty (30) days

from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States, et al.* v. *Montrose Chemical Corporation of California, et al.*, No. CV 90–3122–R (C.D. Cal), and DOJ Ref. #90–11–3–06140.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Central District of California, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012; and the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.25 (25 cents per page reproduction costs), payable to the U.S. Treasury.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–13626 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: application for waiver of passport and/or visa; Form I–193.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 5, 2002 at 67 FR 9999, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Waiver of Passport and/or Visa.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–193, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by an alien who wishes to waive the documentary requirements for passports and/or visas due to an unforeseen emergency. The Service will use the information to determine whether applicants are eligible for entry into the United States under 8 CFR parts 212.1(b)(3) and 212.1(g).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,150 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13596 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: supplementary statement for graduate medical trainees; Form I–644.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9783, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002.

This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electionic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Supplementary Statement for Graduate Medical Trainees.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–644, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection will be used by foreign exchange visitors who are seeking an extension of stay in order to complete a program of graduate education and training.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13597 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-Day notice of information collection under review: application for naturalization; Form N–400.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 15, 2002 at 67 FR 11714, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–400, Business Process and Reengineering Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is used by the INS to determine eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 6 hours and 8 minutes (6.13) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,291,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection

instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13598 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: 30–Day notice of information collection under review: application for transfer of petition for naturalization; Form N–455

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9782, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Transfer of Petition for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–455, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by the applicant to request transfer of his or her petition to another court in accordance with section 405 of the Immigration and Nationality Act. The Service will also use this information to make recommendations to the court.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 17 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13599 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: application to payoff or discharge alien crewman; Form I–408.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 4, 2002 at 67 FR 9783, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget,

Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Payoff or Discharge Alien Crewman.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–408, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection is required by Section 256 of the Immigration and Nationality Act for use in obtaining permission from the Attorney General by master or commanding officer for any vessel or aircraft, to pay off or discharge any alien crewman in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 85,000 responses at 25 minutes (.416 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 35,360 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13600 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Visa waiver program carrier agreement; Form I–775.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 20, 2002 at 67 FR 13009, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Visa Waiver Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to ensure that the transportation company will remain responsible for the aliens it transports to the United States under the Visa Waiver Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 800 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms

Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: May 23, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–13601 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: reinstatement, with change, of a previously approved collection for which approval has expired; accounting system and financial capability questionnaire.

The Department of Justice (DOJ), Office of Justice Program, has submitted the following information collection request of the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 29, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cynthia J. Schwimer, Comptroller (202) 307–0623, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired.

(2) *Title of the Form/Collection:* Accounting System and Financial Capability Questionnaire.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* OJP Form 7120/1. Office of Justice Programs, US Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Not-for-profit institutions. Other: For-profit institutions. This form will be completed by applicants that are newly-formed firms or established firms with no previous grants awarded by the Office of Justice Programs. It is used as an aide to determine those applicants/grantees that may require special attention in matters relating to the accountability of Federal funds. This information is required for assessing the financial risk of a potential recipient in administrating federal funds in accordance with OMB Circular A–110 and 28 CFR part 70.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete a 4-hour form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 400 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: May 24, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–13602 Filed 5–29–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,659 and NAFTA–05058]

Tower Automotive, Sebewaing, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 6, 2002, the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO–CLC, Local 6–0111 requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) under petition TA–W–39,659 and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) under petition NAFTA–5058. The TAA and NAFTA–TAA denial notices applicable to workers of Tower Automotive, Sebewaing, Michigan, were signed on February 13, 2002 and published in the **Federal Register** on February 28, 2002 (67 FR 9326 & 9327, respectively).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Tower Automotive, Sebewaing, Michigan engaged in

employment related to the production of metal stamping for the automobile industry, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed that none of the respondents imported products like or directly competitive with what the subject plant produced during the relevant period.

The NAFTA–TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. The survey revealed that none of the respondents increased their imports of products like or directly competitive with what the subject plant produced from Canada or Mexico during the relevant period. The subject firm did not import from Canada or Mexico products like or directly competitive with what the subject plant produced, nor was the subject plant's production shifted from the workers' firm to Mexico or Canada.

The petitioner alleges that the Dodge pickup inner box panel jobs that left the plant in mid 2001 went to the Chrysler plant in Saltillo, Mexico.

Review of the initial investigation and data supplied by the respondents during the corresponding survey indicate that the customer of the Dodge pickup inner box panel ceased purchasing the product from the subject firm during July 2001, in favor of purchasing the product from other domestic sources.

Further review of the findings in the initial decision, indicate that the company did not shift production of Dodge pickup inner box panels to Mexico or Canada, nor did they import the panels from Mexico or Canada during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13539 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,967]

Bethlehem Steel Corp., Lackawanna Coke Division, Lackawanna, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application of January 23, 2002, the United Steel Workers of America, AFL–CIO–CLC, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on December 11, 2001 and published in the **Federal Register** on December 26, 2001 (66 FR 66426).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Bethlehem Steel Corporation, Lackawanna Coke Division, New York engaged in the production of blast furnace coke, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of blast furnace coke. The survey revealed that none of the customers purchased imported blast furnace coke during the relevant period. United States aggregate imports of coke and semicoke declined in the January through September 2001 period over the corresponding January through September 2000 period. The investigation further revealed that although Bethlehem Steel Corporation imports blast furnace coke, these imports had no effect on the Lackawanna plant because they went to facilities never supplied by the Lackawanna plant.

The petitioner alleges that increased imports of steel had a direct effect on coke consumption, thus impacting the Lackawanna coke plant. The petitioner further states that "the long term trends of higher coke and steel imports resulted in the shutdown of Lackawanna."

Steel imports into the United States is not relevant to the TAA investigation that was filed on behalf of workers producing blast furnace coke. The product imported must be "like or directly" competitive with what the subject firm plant produced and the imports must "contribute importantly" to the layoffs at the subject plant to meet the eligibility requirements for adjustment assistance under section 223 of the Trade Act of 1974. Further examination of the facts developed in the initial investigation show that company imports, customer imports and aggregate U.S. imports of blast furnace coke did not "contribute importantly" to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 24th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13540 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,449]

Clebert's Hosiery Mill, Inc., Connelly Springs, NC; Notice of Revised Determination on Reconsideration

By letter of March 29, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on February 15, 2002, based on the finding that imports of socks did not contribute importantly to worker separations at the Connelly Springs plant. The denial

notice was published in the **Federal Register** on February 28, 2002 (67 FR 9324).

The company requested that the Department examine industry data concerning the amount of sock imports entering the United States.

A review of relevant industry data, not available during the initial investigation, shows that sock imports increased significantly in the 2001 period indicating an increased reliance on imported socks during the 2001 period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Clebert's Hosiery Mill, Inc., Connelly Springs, North Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Clebert's Hosiery Mill, Inc., Connelly Springs, North Carolina, who became totally or partially separated from employment on or after November 7, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13545 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,328]

Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, NC; Notice of Revised Determination on Reconsideration

By letter of February 21, 2002, the petitioners, requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on January 22, 2002, based on the finding that imports did not contribute importantly to worker separations at the subject plant. The declines in employment at the subject plant were attributed to the outsourcing of products produced by the subject plant (saw blades, shaper knives and other cutting bits) used in the manufacturing of furniture. The denial notice was published in the **Federal Register** on February 5, 2002 (67 FR 5293).

The petitioners allege that the importing of furniture by an affiliate, Drexel Heritage Furnishings at Morganton, North Carolina, in which they were in direct support of drastically reduced the production of furniture and thus impacted the subject plant.

Information provided by the petitioner and information provided by the company show that the subject plant workers were in direct support, producing saw blades, shaper knives and other cutting bits for of an affiliated plant(s) (Drexel Heritage Furnishings Inc., Plant #3 and #5, Morganton, North Carolina). The workers of Drexel Heritage Furnishings Inc., Plants #3 and #5 produced residential furniture and were certified eligible to apply for Trade Adjustment Assistance on June 4, 2001 under TA-W–39,275. Therefore, since the workers of Drexel Heritage Furnishings, Inc., Machine Shop, North Carolina were in direct support (meaningful portion) of the residential furniture produced at the certified affiliated facilities, they meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Drexel Heritage Furnishings, Inc., Morganton, North Carolina, in which the subject firm was in direct support, contributed importantly to the declines in the firm's sales or production and to the total or partial separation of workers at the Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, North Carolina. In accordance with the provisions of the Act, I make the following certification:

All workers of Drexel Heritage Furnishings, Inc., Machine Shop, Morganton, North Carolina, who became totally or partially separated from employment on or after October 9, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13543 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,522]

JLG Industries Inc., Bedford, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application post marked March 1, 2002, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on January 14, 2002, and published in the **Federal Register** on January 31, 2002 (67 FR 4749).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of JLG Industries Inc., Bedford, Pennsylvania was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported scissor lift aerial work platforms, while decreasing their purchases from the subject firm during the relevant period. The investigation further revealed that the company did not import products like or directly competitive with scissor lift aerial work platforms produced at the subject firm during the relevant period.

The petitioner requested that the Department of Labor examine the facts pertaining to the company opening up

a new plant located in Belgium that produces the same product as the subject firm.

A review of the initial investigation shows that the Belgium plant produced scissor lift aerial work platforms exclusively for the European market.

The company also filed a request dated March 5, 2002 for administrative reconsideration of the Department's negative determination regarding eligibility to apply for TAA. However, the request was received beyond the 30 day requirement to apply from the date the decision was published in the **Federal Register**.

That request expressed concerns that a major foreign producer of products, like or directly competitive with what the subject plant produced cut into the subject firm's market share after the closure of the subject firm.

The survey conducted by the Department of Labor examines the customer's purchases of products like or directly competitive with what the subject plant produces during the relevant time period. The survey requests information regarding customer's purchases from the subject firm, purchases from other domestic sources (including a breakout of imported products purchased from other domestic sources) and purchases of imported products "like or directly competitive" with what the subject plant produces. The survey shows that the respondents reported simultaneous declines in their purchases from the subject firm, other domestic sources and imports, indicating that the layoffs at the subject plant are a factor of reduced demand rather than "imports contributing importantly" to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13537 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,593]

Muruta Electronics, North America Inc., State College Operations, State College, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 5, 2002, the workers requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 20, 2002, and published in the **Federal Register** on March 5, 2002 (67 FR 9324).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Muruta Electronics, North America Inc., State College Operations, State College, Pennsylvania was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported capacitors, while decreasing their purchases from the subject firm during the relevant period. The investigation further revealed that the subject firm decreased their purchases of imported capacitors during the relevant period.

The petitioner believes that the company shifted a meaningful portion of plant capacitor production to a foreign source, and is importing the capacitors back to the State College plant.

A review of the data supplied by the company during the initial investigation shows that company capacitors imports declined during the relevant period. In fact, the imports declined at a greater rate than the capacitor production at the subject plant.

The petitioner also feels that the survey results may not reflect accurate reported customer capacitor imports, since customers may not know if the capacitors they purchased were produced at the subject firm or produced in a foreign country.

One customer reported that they were not sure if the capacitors purchased from the subject firm were produced domestically or imported. That customer, however, estimated the amounts they believed were imported during the specified periods of the survey. That respondent and the other respondent(s) reported capacitor imports declined sharply during the relevant period.

Further review shows that aggregate U.S. imports of capacitors declined sharply in 2001 over the corresponding 2000 period, followed by further steep declines during the January through February 2002 period over the corresponding 2001 period.

Based on the declining import factors discussed above, imports did not "contribute importantly" to the declines in employment at the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 6th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13538 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,453]

Penley Corp., West Paris, ME; Notice of Revised Determination on Reconsideration

By letter of March 24, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on March 1, 2002, based on the finding that imports of wooden spring clothespins did not contribute importantly to worker separations at the subject plant. The denial notice was published in the **Federal Register** on March 20, 2002 (67 FR 13012).

To support the request for reconsideration, the company in their request for reconsideration indicated that they were importing clothespins.

A review of the allegation and information provided by the company shows that the company began importing clothespins during the relevant period. The company further indicated that all production at the subject firm is being replaced by imported clothespins, thus impacting the workers at the subject plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Penley Corporation, West Paris, Maine contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Penley Corporation, West Paris, Maine, who became totally or partially separated from employment on or after December 6, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 9th day of May, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13546 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,368]

SEH–America, Vancouver, WA; Notice of Negative Determination Regarding Application for Reconsideration

By application received February 26, 2002, the petitioner, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on January 2, 2002 and published in the **Federal Register** on January 11, 2002 (67 FR 1511).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at SEH–America, Vancouver, Washington engaged in the production of polished silicon wafers (6 & 8 inch), was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The subject firm did not import 6-inch silicon wafers produced by SEH–America at Vancouver, Washington. The subject firm has always imported 8-inch wafers (a different product entirely), but company imports of that item have been declining in recent years.

The investigation further revealed that the subject firm intended to shift some 6-inch wafer production offshore, and in the future import the product back into the U.S. for sale and distribution in this country. The move, however, was scheduled for later in 2002.

The petitioner alleges that another company was certified under NAFTA–Transitional Adjustment (NAFTA–TAA) when that company shifted their production to Mexico and thus feels that a shift in 6-inch wafer production by the subject firm to Malaysia should qualify the workers of SEH–America, Vancouver, Washington eligible to apply for TAA.

Under NAFTA–TAA, a shift in subject plant production to Mexico or Canada normally meets the eligibility requirements. However, under TAA a shift in plant production to any foreign source is not relevant to meeting the eligibility requirement of section 222(3) of the Trade Act of 1974. Imports "like or directly competitive" with what the subject plant produced must "contribute importantly" to the layoffs at the subject firm. The imports must be entering the Untied States during the relevant period.

A review of the initial decision shows that imports of the 6-inch wafers were not scheduled to begin arriving until mid-2002, well beyond the relevant period of the investigation. The workers were advised to submit a new petition during the relevant period of time the 6-inch wafers were scheduled to arrive into the United States from Malaysia.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13544 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,295]

TNS Mills, Spartanburg, SC; Notice of Negative Determination Regarding Application for Reconsideration

By application post marked on February 4, 2002, a petitioner, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on December 31, 2001 and published in the **Federal Register** on January 11, 2002 (67 FR 1510).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at TNS Mills, Spartanburg, South Carolina engaged in the production of greige bottom-weight cotton rich apparel fabrics, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The

"contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of greige bottom-weight cotton rich apparel fabrics. The survey revealed that none of the customers increased their import purchases of greige bottom-weight cotton rich apparel fabrics during the relevant period.

The petitioner alleges that price and illegal imports are factors leading to the downturn in the textile industry. The petitioner further states that studies done by the North Carolina State University show this.

As noted above, the Department of Labor normally examines if the "contributed importantly" test is met through a survey of the workers" firm's customers. A review of the survey results shows that the customers did not increase their imports of greige bottom-weight cotton rich apparel fabrics during the relevant period.

In reference to petitioner's allegation concerning price, the price of a product is not relevant to meeting the "contributed importantly" criterion of the Trade Act of 1974.

Further, studies such as those by the North Carolina State University are considered, however the Department puts the overwhelming majority of weight on the direct impact of imports on the subject firm by the use of customer surveys to test if the "contributed importantly" test is met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13542 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,039]

TNS Mills Inc., Rockingham Plant, Rockingham, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 19, 2002, the company, requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on February 15, 2002 and published in the **Federal Register** on February 28, 2002 (67 FR 9324).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at TNS Mills Incorporated, Rockingham Plant, Rockingham, North Carolina engaged in the production of ring spun carded cotton yarn, was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a survey of the subject company's major customers regarding their purchases of ring spun carded cotton yarn. The survey revealed that none of the customers increased their import purchases of ring spun carded cotton yarn during the relevant period.

The petitioner alleges that various customers of the subject firm were certified for TAA. Therefore, they believe that due to the number of customers certified for TAA, they should be certified for TAA.

The certification of the subject firm's customers is irrelevant unless the customers are affiliated with the subject firm by corporate ownership. If there was corporate affiliation the workers could receive consideration for eligibility under TAA. The customers certified under TAA were outside the TNS Mills corporate structure, and therefore cannot be considered eligible for TAA under those certifications.

The petitioner also alleges that imports of ring spun cotton yarn are lower in price than the domestic market, thus impacting the subject firm workers.

The price of ring spun cotton yarns is not relevant to the TAA investigation that were filed on behalf of workers producing ring spun cotton yarns.

The petitioner further claims that imported carded yarns impacted the closing of the subject plant. The petitioner supplied a chart with import trends of various yarn imports.

Although, the Department uses industry data in their TAA determinations, the Department of Labor normally examines if the "contributed importantly" test is met through a survey of the workers' firm's customers. A review of the survey results shows that the customers did not increase their imports of ring spun carded cotton yarn during the relevant period. Further, the ratio of imports of carded yarn to U.S. production is relatively low during the relevant period and therefore not a major contributing factor relating to the declines in sales and employment at the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of April, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–13541 Filed 5–29–02; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–066]

Notice of Information Collection Under Emergency Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under emergency review

SUMMARY: The National Aeronautics and Space Administration (NASA) has submitted the following information

collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). Emergency review and approval of this collection has been requested from OMB by June 30, 2002. NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this information collection concurrent with the OMB review period. The information obtained in this collection will assist NASA in assessing the effectiveness of aviation safety programs.

DATES: All comments should be submitted by June 30, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: National Aviation Operations Monitoring Service: General Aviation Pilots

OMB Number: 2700–

Type of review: New collection

Need and Uses: The information collected will be analyzed and used by NASA Aviation Safety Program managers to evaluate their progress in improving aviation over the next decade.

Affected Public: Individuals or households

Number of Respondents: 10,000

Responses Per Respondent: 1

Annual Responses: 10,000

Hours Per Request: Approx. ½ hour

Annual Burden Hours: 6,280

Frequency of Report: Quarterly; Annually

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–13459 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–067]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, June 20, 2002, 8 a.m. to 12 Noon.

ADDRESSES: Country Inns & Suites-Huntsville, 4880 University Drive, Huntsville, AL 35816. Tele: (256) 837–4070. The meeting will be held in the Commons Room.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0391. Members of the public should contact Ms. Vickie Smith on 202/358–1650, if you plan to attend.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will meet to deliberate topics for inclusion in its Annual Report for 2002. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The Aerospace Safety Advisory Panel is currently chaired by Ms. Shirley C. McCarty and is composed of 9 members and 7 consultants.

The meeting will be open to the public up to the capacity of the room (approximately 40 persons including members of the Panel). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Members of the public will be requested to sign a visitor's register.

Dated: May 22, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–13460 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–065]

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the National Aeronautics and Space Administration

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of guidelines and request for comments.

SUMMARY: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554) directed the Office of Management and Budget (OMB) to issue government-wide information quality guidelines. OMB's final guidelines, republished on February 22, 2002, require each Federal agency to issue Agency-specific implementing guidelines for ensuring the quality of disseminated information. The National Aeronautics and Space Administration (NASA) is seeking comments on its draft information quality guidelines. The draft sets out guidelines for ensuring the quality, objectivity, utility, and integrity of NASA's information and describes an administrative mechanism for seeking correction of information publicly disseminated by NASA.

DATES: Written comments regarding NASA's draft information quality guidelines must be submitted on or before 30 days after date of publication in the **Federal Register**.

ADDRESSES: Comments should be sent to Nancy R. Kaplan, Code AO, National Aeronautics and Space Administration, Washington, DC 20546–0001. Comments may also be e-mailed to *nkaplan@hq.nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy R. Kaplan, Code AO, National Aeronautics and Space Administration, Washington, DC 20546–0001. Telephone: (202) 358–1372.

SUPPLEMENTARY INFORMATION:

National Aeronautics and Space Administration Draft Guidelines for Ensuring the Quality of Information

A. Purpose

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658; hereafter referred to as Section 515) directed the Office of Management and Budget (OMB) to issue government-wide information quality guidelines. OMB's final guidelines, entitled "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," were re-published on February 22, 2002 (67 FR 8451.) The OMB guidelines require each Federal agency to issue their own, Agency-specific, implementing guidelines for ensuring the quality of disseminated information.

This document outlines the National Aeronautics and Space Administration's (NASA's) information quality guidelines; details corresponding

procedures, administrative mechanisms, and reporting requirements; and establishes NASA's responsibilities for ensuring that its information adheres to the quality guidelines. Included in this document are the procedures for affected persons to seek and obtain correction of information disseminated by NASA.

B. Background

Section 203(2)(3) of the National Aeronautics and Space Act, Public Law 85–568, as amended, chartered NASA to "provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof." NASA makes available a diverse wealth of information to government, industry, academia, and the public. Some examples include scientific and technical information from its world-class research and operational programs, such as reports, journal articles, data, and imagery; information concerning its current vision, mission, goals, programs, and performance, such as performance plans and reports; information regarding the missions it aspires to pursue, such as strategic plans; and educational information, such as curricula, lesson and technology plans, and educational briefs, for K–12 through post-graduate students.

Information from NASA's missions and programs is used by a number of organizations and individuals including, but not limited to, government, national, and international policymakers formulating public policy; NASA's scientists and others cooperating with NASA to pursue their important work; the media reporting on the importance of NASA's research; the educational community educating a new generation of citizens in science, math, and engineering; and members of the public learning about NASA's goals and accomplishments.

C. Policy and Procedures

C.1. Scope

These guidelines are applicable to NASA Headquarters and Centers, including Component Facilities; and to the Jet Propulsion Laboratory and other contractors where specified by contract. They prescribe policy and procedures for a wide variety of dissemination media, such as printed, electronic (including websites), and other forms of publication.

The definitions of information, dissemination, quality, and other terms used within this document were adapted from those established by OMB in its government-wide quality guidelines. Where appropriate, NASA has expanded on the OMB definitions to provide guidance that is more applicable to Agency-specific information.

The guidelines for pre-dissemination review in this document shall apply to information that NASA first disseminates on or after October 1, 2002. Other guidelines in this document shall pertain to information disseminated on or after October 1, 2002, regardless of when it was first disseminated by NASA.

C.2. Guidelines

NASA will ensure and maximize the quality, including the utility, objectivity, and integrity, of its disseminated information, except where specifically exempted. Categories of information that are exempt from these guidelines are detailed in Section C.3.

NASA's "disseminated information" includes any communication or representation of knowledge, such as facts or data, conveyed in any media or form, such as textual, numerical, graphic, cartographic, narrative, or audiovisual, whether on paper, film, or electronic media, and whether disseminated via formal publication, recording, machine-readable data, or website.

C.2.a. Basic Standard of Information Quality

This section outlines the basic standard of information quality that NASA's disseminated information must meet. NASA will treat information quality as integral to every step of its development of information, including creation, collection, maintenance, and dissemination.

A level of information quality assurance greater than the basic standard is required in those situations that involve influential scientific, financial, or statistical information. The quality standard for influential information is defined in Section C.2.b. Additionally, principles of information quality beyond the basic standard may be adopted as appropriate for specific categories of NASA's disseminated information. Section C.2.c outlines principles of information quality that may apply to certain categories of NASA's information.

The basic standard of information quality, for the purposes of these guidelines, has three components: utility, objectivity, and integrity. The guidelines sometimes refer to these terms collectively as "quality." In ensuring the quality of its disseminated information, NASA must ensure that all of these components are sufficiently addressed.

C.2.a.1. *Utility.* The measure of utility refers to the extent that the information can be used for its intended purpose, by its intended audience. The following principles relate to these dimensions of information utility:

Intended Purpose

- To provide useful, relevant information, NASA will stay informed about the information needs of its stakeholders and develop new data, models, and information where appropriate.
- When currency of information is critical, NASA will ensure that relevant information is made available in a timely manner and updated as appropriate.
- NASA's information will be reviewed by content owners, at a frequency appropriate to the type of information, to ensure that it remains relevant and timely.

Intended Audience

- NASA's information dissemination process will make the Agency's information widely available and broadly accessible, as appropriate and practical for the target audience.
- NASA will ensure that its information is accessible to all potential users, including individuals with disabilities, per Federal law, statute, and Agency guidance.

C.2.a.2. *Objectivity.* The measure of objectivity refers to the extent that the information is accurate, clear, complete, and unbiased. The following principles relate to these dimensions of information objectivity:

Accuracy

- Information disseminated by NASA will be based on reliable, accurate data that has been validated.
- NASA's information will be proofread before release to ensure that they are free from typographical and grammatical errors.
- Where feasible and appropriate, NASA will inform users of corrections to the Agency's information resulting from discovery of errors.

Clarity

- NASA's information will be reviewed before release to ensure clarity and coherence of the material presented.

Completeness

- NASA's information will include, to the extent feasible, the proper context to ensure completeness of the material presented.
- Where feasible, data presented by NASA will have full and accurate

documentation, and circumstances affecting data quality will be identified and disclosed to users.

Lack of Bias

- NASA will utilize systematic analysis and review processes to remove potential biases from its information.
- To the extent possible, NASA will ensure that information is presented without the appearance of bias.

C.2.a.3. *Integrity.* The measure of integrity refers to the protection of NASA's information from unauthorized access, revision, modification, corruption, falsification, and unintentional or inadvertent destruction. The following principles relate to information integrity:

- NASA employees responsible for classified information, draft materials, and otherwise sensitive information will utilize appropriate security controls and mechanisms to protect the information from improper dissemination.
- When information integrity has been compromised, NASA will take immediate steps to remedy the situation and facilitate correction of the compromised information.

A key aspect of information integrity is ensuring that NASA's computer systems remain protected from unauthorized access or other threats that could damage the information residing therein. NASA's Information Technology (IT) Security Program is the responsibility of the NASA Chief Information Officer (CIO). The roles and responsibilities of the CIO with respect to IT Security are outlined in detail in NASA Procedures and Guidelines (NPG) 2810.1, "Security of Information Technology."

C.2.b. Quality Level for Influential Information

NASA requires a higher standard of quality for information that is considered influential. Influential scientific, financial, or statistical information is defined as NASA information that, when disseminated, will have or does have clear and substantial impact on important public policies or important private sector decisions.

Each NASA organizational director will be responsible for determining which of its disseminated information falls into this limited category. Where information is considered influential, the responsible organization shall document the safeguards and policies that are in place to ensure the quality (utility, objectivity, and integrity) of the information.

OMB requires more stringency for ensuring the quality of influential scientific, financial, or statistical information. For these categories of influential information to be considered compliant with quality guidelines, the information must be transparent and reproducible to the greatest possible extent (see C.2.b.1 and C.2.b.2 for definitions of these terms). It is important to note that applying the reproducibility standard to all influential data may not be practical or warranted; i.e., where it may be impractical or unethical to duplicate the circumstances of an experiment or investigation.

Principles related to ensuring the transparency and reproducibility of information are outlined below.

C.2.b.1. *Transparency.* The measure of transparency refers to the extent that information, particularly that of a scientific or statistical nature, has supporting data documented and made available.

- In disseminating information of an influential nature, NASA will specifically describe the data used, the various assumptions employed, the specific analytic methods applied, and the statistical procedures utilized.

C.2.b.2. *Reproducibility.* The measure of reproducibility refers to the extent that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. In other words, independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable margin of error.

- Each NASA organization will be responsible for determining which categories of original and supporting data will be subject to the reproducibility requirement.
- NASA will make the information it disseminates and the methods used to produce this information as transparent as possible so that they can, in principle, be reproducible by qualified individuals.
- When it is not practical to apply the reproducibility standard to data or information, NASA will ensure greater transparency of the methods used to produce the data or information.

C.2.c. Principles for Specific Categories of Information

OMB's information quality guidelines encourage Federal agencies to address principles of quality for specific categories of information that they produce. NASA's experience has been that the information used in conducting the Agency's daily business falls into five categories, as documented in NPG 2810.1.

NASA will ensure the quality of information in each information category by adhering to the key principles outlined below.

C.2.c.1. Mission Information

This category consists of information that directly supports NASA's human space flight, launch operations, space vehicle operations, wind tunnel operations, training simulation vehicles, and other mission-related activities.

- NASA will use special protections to preserve its mission information from alteration or destruction, particularly where proprietary or sensitive information is involved.
- NASA will exercise special care in handling, disseminating, and ensuring the protection of information pertaining to missions involving human life.
- NASA will protect information related to individuals involved in NASA's missions, per the requirements of the Privacy Act of 1974 (5 U.S.C 552A, as amended.)

OMB's guidelines require special considerations for analysis of risks to human health, safety, and the environment. OMB directs agencies to adopt or adapt the quality standards contained in the 1996 amendments to the Safe Drinking Water Act for analysis of these types of risks. With respect to information in this category, NASA will ensure that it has analyzed and/or documented, to the extent practical:

- Each population addressed by any risk estimate and the expected risk for each population;
- Acceptable upper and lower bounds of risk;
- Uncertainties identified during the risk assessment process and how the uncertainties were or will be addressed;
- Peer review studies related to risk estimates;
- Methodologies used to reconcile inconsistencies in the scientific data.

C.2.c.2. Business and Restricted Technology Information

This category consists of information related to financial, legal, payroll, personnel, procurement, source selection, and other business and restricted technology activities. NASA is required by law to protect much of the information in this category.

- NASA will ensure that categories of information requiring protection or restricted access under law or statute (i.e., Export Administration Regulations and International Traffic in Arms regulations) are appropriately handled and protected from inappropriate dissemination.

C.2.c.3. Scientific, Engineering, and Research Information

This category consists of information that supports basic research, engineering, and technology development, but that is less protected than mission information.

OMB's guidelines give special consideration to scientific, technical, and statistical information. OMB regards information in this category that has been subject to formal, independent, external peer review as presumptively objective and therefore of higher quality. With respect to NASA's peer reviewed scientific, engineering, and research information, the following principles for ensuring information quality apply:

- NASA will ensure that peer reviews conducted by the Agency are performed in an open and rigorous manner
- Reviewers in NASA-sponsored peer reviews will be selected on the basis of technical expertise and will be requested to disclose prior technical or policy positions that may affect the issues at hand and to disclose sources of personal and institutional funding that may affect or appear to affect their technical judgment.

It is important to note that some types of scientific, engineering, and research information disseminated by NASA may be exempt from NASA's information quality guidelines. Specifically, when scientists and researchers use the "academic process" to communicate their findings, i.e., through conference presentations and papers, peer reviewed journal articles, peer reviewed summary and assessment reports, and other dissemination practices that are standard in the research community, their research data, conclusions, and results may not represent an official product or position of the Agency. If this is the case, the information disseminated should clearly indicate via a disclaimer or other means that the views expressed are the author's, and not necessarily those of NASA. More specifics about this exception are outlined in Section C.3, Exempted NASA Information.

C.2.c.4. Administrative Information

This category consists of information such as electronic or written correspondence, briefing information, program/project status documents, organizational documentation, strategic plans, and other information of an administrative or general nature.

- NASA will ensure that administrative information is reviewed regularly to ensure its continued relevance and accuracy.

C.2.c.5. Public Access Information

This category consists of information that is intended for public use, such as material related to NASA's educational programs.

- NASA will ensure that its key information is made available to the general public through the widest possible dissemination.
- NASA will carefully review references and links to external sources of information to ensure that they are business related and will not lead to an apparent conflict of interest, inappropriate endorsement, or embarrassment to the Agency.

C.3. Exempted NASA Information

The OMB information quality guidelines permit exceptions for certain types of information. These categories of information do not have to meet a minimum standard of information quality.

The biggest category of information that is exempt from this policy is information that is disseminated by but neither authored by NASA nor adopted as representing NASA's views. This category includes, but may not be limited to:

- Information communicated by scientists and researchers via the "academic process" (as defined in Section C.2.c.3);
- Information that is funded by NASA but published by a contractor, grantee, or other government organization without NASA's direction.

The following types of information dissemination are also exempted from this policy:

- Information in which distribution is limited to government employees, Agency contractors, or grantees, including intra-agency use or sharing of information;
- Responses to requests for Agency records under the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act (FACA), and other applicable laws and regulations;
- Correspondence with individuals or persons;
- Press releases;
- Public filings, subpoenas, or other adjudicative processes;
- Archival information;

C.4. Ongoing Process for Ensuring NASA's Information Quality

NASA currently has a number of policies and processes in place to ensure that information produced and disseminated by the Agency meets a basic level of quality. Much of the information that NASA issues in the Agency's name, uses to support policy, or utilizes to reach mission decisions is subject to independent, external peer review, and the remainder is generally subject to one or more levels of quality review.

The review and approval process for NASA's disseminated information will be documented as much as possible and practical. The level of documentation will be commensurate with the importance of the information.

Some of the review processes utilized by NASA are described below. These review processes are utilized at the discretion of the organizations that produce NASA's content, depending on the type of information, intended audience, and other factors relevant to the situation.

Editorial Review

Much of NASA's information is subject to editorial review by a qualified technical editor or other professional. The editorial review ensures that spelling, grammatical, and punctuation errors are discovered and corrected before an information product is disseminated.

Compliance Review

The author, technical monitor, or other NASA official responsible for an information product will ensure that, when appropriate, the information is reviewed for compliance with Federal law, statute, and NASA policy. NASA's information may be subject to limited dissemination if export control limitations, International Traffic in Arms Regulations, confidentiality considerations, proprietary or copyright concerns, or other circumstances dictate the information's protection.

Content Review

NASA's information is subject to content review to ensure its quality and integrity. The author, content owner, or other NASA official responsible for an information product ensures that content reviews are conducted before the information is disseminated. As described in NPG 2200.2, "Management of NASA Scientific and Technical Information," scientific and technical information undergoing formal publication by NASA is subject to review before release. These reviews assess the quality of the information product in terms of readability, its communication of information, and its suitability for a particular audience.

Peer Review

The use of peer review helps NASA to ensure the quality of its information. In general, NASA evaluates program

merit and priorities on the basis of peer review and advice from committees broadly representative of NASA's customers. NASA strives to form diverse, expert review panels that encompass the full range of scientific and technical expertise required.

While the general principle regarding the use of peer review applies across the Agency, there is not a uniform peer review process for all types of information, and not all of NASA's information requires peer review. Different approaches are warranted by differences in goals, customer base, etc. among the various disciplines.

Other Review Processes

NASA Enterprise, Center, Mission, Program, Project, or other organizational managers may establish and apply their own guidelines related to the quality review and dissemination of their own information. This is acceptable as long as the component organizations' guidelines do not conflict with the Agency's information quality guidelines.

D. Administrative Mechanisms

The NASA CIO will establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the Agency if the information, upon further review, does not comply with NASA's quality standards. The administrative mechanisms are intended to be flexible, appropriate for the nature of NASA's information dissemination activities, and complementary to NASA's existing information resources management and administrative practices.

For the purposes of these guidelines, affected persons are defined as persons who may benefit from or be harmed by the disseminated information. The term persons includes groups, organizations, and corporations as defined by the Paperwork Reduction Act (PRA) of 1995.

NASA will address genuine and valid needs of its users without disrupting Agency processes. NASA can reject claims made in bad faith or without justification, and can decide upon and undertake the degree of correction deemed appropriate to fit the nature and timeliness of the information involved.

D.1. Requesting Correction of Information by NASA

If an affected person believes that information disseminated by NASA does not meet the guidelines for quality (utility, objectivity, and integrity), he or she may seek correction of the information.

Requestors wishing to seek correction of information under NASA's information quality guidelines must follow the procedures outlined below. These procedures apply only to requests for the correction of information relevant to the information quality guidelines.

- Requests must be in writing, and may be submitted by regular mail, electronic mail, or fax. (Final guidelines will include explicit submission mechanisms, such as addresses)
- Requests must indicate that the correction of information is requested under NASA's information quality guidelines.
- Requests must include the requestor's name, phone number, preferred mechanism for receiving a written response from NASA (fax, e-mail, regular mail) with applicable contact information, and organizational affiliation (if any).
- Requests must clearly describe the information that the requestor believes needs correcting, and include the name of the report or information source, the location if electronic, and the date of issuance.
- Requests must indicate how the requestor is an affected person for the purposes of these guidelines (as defined in Section D, Administrative Mechanisms, and Section F, Definitions).
- Requests must state specifically what information should be corrected and what changes to the information, if any, are proposed. If possible, provide supporting evidence to document the claim.

The NASA CIO will have the responsibility for receiving suggestions for correction of information. The CIO will coordinate with such Agency officials as appropriate, including technical experts, content owners, legal counsel, and others, to determine whether or not to correct the information.

In its review, NASA will determine if the information in question does not meet the appropriate quality standards and needs to be corrected. The review of the information will be limited to that part or parts of the information that are indicated to be in error.

If NASA decides that correction of the information is warranted, NASA will correct the information in accordance with existing statutes, regulations, and procedures. The NASA CIO will inform the requester in writing of the decision and the action taken.

If NASA decides not to correct the information, the requester shall be informed promptly in writing by the CIO of the decision not to correct the information, the reason for refusal, the date of the refusal, and the opportunity for appeal.

NASA will respond to a request for correction of information within 60 calendar days of receipt of the information. NASA may extend the 60-day response period if additional time is required to review the request for correction of information. NASA will contact the requestor if an extension of response time is needed, and will indicate the reason for the delay in responding and an estimated decision date.

NASA may reject a request for information correction without taking action on it if NASA determines that:

- The requestor is not an affected person (as defined in Section F., Definitions);
- The information required to process a review is not provided in full;
- The request for correction is frivolous.

The NASA CIO will maintain file records of each request for information correction, including copies of the original request, the response from NASA, and notification to the requestor of NASA's decision and action taken.

D.2. Appeal Process

If a requestor disagrees with NASA's decision, he or she may file an appeal in writing within 30 calendar days of the decision. [Final guidelines will include explicit appeal submission mechanisms] The request for appeal will be considered by an internal review panel, convened by the CIO. The exact membership of the appeals panel will vary depending on the specifics of the information under review, but will include representatives from appropriate scientific and technical, legal, policy, and other functional areas as needed. The appeals panel will not include any personnel who were involved in the original review of the correction request.

If, after review, the appeals panel determines that the original decision should be overturned, the appeals panel will notify the CIO, who will in turn advise the requestor of NASA's decision. If applicable, NASA will then correct the information in accordance with existing statutes, regulations, and procedures. If the appeals panel determines that correction of the information is not warranted, the CIO will advise the requestor of the denial and the reason and authority for the denial.

All appeals will be processed within 30 calendar days unless NASA

determines that a fair review cannot be made within this time frame. NASA will contact the requestor if an extension of response time is needed, and will indicate the reason for the delay in responding and an estimated decision date.

The NASA CIO will maintain file records of each appeal request, the response from NASA, and notification to the requestor of the appeal decision.

E. NASA Reporting Requirements

Pursuant to OMB requirements, the NASA CIO will submit an annual report on the number and nature of complaints received by the Agency regarding the accuracy of the information it disseminates. The report will contain, as appropriate, both quantitative and qualitative information about the complaints received, the resolution of the complaints, and the number of NASA staff hours that were devoted to handling requests related to the information quality guidelines. The report will also include an explanation of Agency decisions to deny or limit corrective action. The first annual report, due to OMB by January 1, 2004, will document requests received and actions taken during FY2003.

F. Definitions Based on OMB Guidance

F.1. Affected persons

Persons who may benefit from or be harmed by the disseminated information. This includes persons who are seeking to address information about themselves as well as persons who use information. "Persons" includes groups, organizations and corporations as defined by the Paperwork Reduction Act (PRA) of 1995.

F.2. Dissemination

NASA-initiated, -directed, or -sponsored distribution of information to the public. Dissemination does not include distribution limited to government employees or contractors or grantees or sharing of government information or responses to requests for records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

F.3. Influential

When used in the context of scientific, financial, or statistical information, influential means that NASA can reasonably determine that dissemination of the information will have or does have clear and substantial impact on important public policies or important private sector decisions.

F.4. Information

Any communication such as facts or data, in any media or form, including text, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that NASA disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where it is made clear that that what is being offered is someone's opinion rather than fact or NASA's views.

This includes information in any media, such as paper, electronic, web page, CD-ROM, etc.

F.5. Integrity

Integrity means the security of information (e.g., that it is protected from unauthorized access or revision so that it is not compromised through corruption or falsification)

F.6. Objectivity

Objectivity means that the information is accurate, clear, complete, and unbiased.

F.7. Quality

Quality is an encompassing term comprised of three elements: integrity, objectivity, and utility. Therefore, the terms are sometimes referred to collectively as "quality." Integrity, objectivity, and utility are individually defined within this document.

F.8. Reproducibility

The information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. With respect to analytic results, "capable of being substantially reproduced" means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.

F.9. Transparent/Transparency

Information that has transparency is clear and well documented. For scientific information, transparency refers to the extent that underlying assumptions, methodologies, and analytical processes are made available as context.

F.10. Utility

Utility means that the information can be used for its intended purpose to its intended audience.

Lee B. Holcomb,

Chief Information Officer, Office of the Administrator.

[FR Doc. 02–13458 Filed 5–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL INSTITUTE FOR LITERACY

Notice of Closed Meeting

AGENCY: National Institute for Literacy (NIFL).

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (FACA). This document is intended to notify the general public of their opportunity to attend the meeting.

Date and Time: June 6, 2002 from 9 a.m. to 4:30 p.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, e-mail: *scoles@nifl.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Pub. L. 105–220, Sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Advisory Board 's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides

independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on June 6, 2002, will focus on future and current NIFL program activities, and other relevant literacy activities and issues.

On June 6, 2002 from 1:30–2:30 p.m., the meeting will be closed to the public to discuss personnel issues of a sensitive nature relating to the internal personnel rules and practices of an agency and are likely to disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy if conducted in open session. Such matters are protected by exemption under the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). A summary of the activities at the closed session and related matters which are informative to the public and consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Furthermore, due to the sensitive nature of this request, this meeting notice will not meet the fifteen-day requirement under FACA.

Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: May 24, 2002.

Sharyn Abbott,

Executive Officer.

[FR Doc. 02–13582 Filed 5–29–02; 8:45 am]

BILLING CODE 6055–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Renewal Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: This notice is to announce the renewal of the Advisory Committee on Nuclear Waste (ACNW) for a period of two years.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on Nuclear Waste for the two year period commencing on May 23, 2002, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the Advisory Committee on Nuclear Waste is to report to and advise the Nuclear Regulatory Commission (NRC) on nuclear waste management. The bases of ACNW reviews include 10 CFR parts 20, 40, 50, 60, 61, 63, 70, 71 and 72, and other applicable regulations and legislative mandates. In performing its work, the Committee will examine and report on those areas of concern referred to it by the Commission and may undertake studies and activities on its own initiative, as appropriate. Emphasis will be on protecting the public health and safety in the disposal of nuclear waste. The Committee will undertake studies and activities related to nuclear waste management such as transportation, storage and disposal facilities, the effects of low levels of ionizing radiation, decommissioning, materials safety, application of risk-informed, performance-based regulations, and evaluation of licensing documents, rules and regulatory guidance. The Committee will interact with representatives of the public, NRC, ACRS, other Federal agencies, State and local agencies, Indian Tribes, and private, international and other organizations as appropriate to fulfill its responsibilities.

FOR FURTHER INFORMATION PLEASE CONTACT: John T. Larkins, Executive Director of the Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7360.

Dated: May 23, 2002.

Andrew L. Bates,

Federal Advisory Committee Management Officer.

[FR Doc. 02–13467 filed 5–29–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. (as shown in Attachment 1), License Nos. (as shown in Attachment 1), EA–02–077]

In the Matter of All Decommissioning Power Reactor Licensees; Order Modifying Licenses (Effective Immediately)

I

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing possession of nuclear power plants in accordance with the Atomic Energy Act of 1954 and 10 CFR part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, appendix C. Specific safeguards requirements are contained in 10 CFR 73.55.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent, interim measures to address the current threat environment in a consistent manner throughout the nuclear reactor community. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 [1] of this Order, on all decommissioning power reactor licensees. These interim requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

[1] Attachment 2 contains SAFEGUARDS information and will not be released to the public.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safety.

Although the additional security measures implemented by the licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that the security measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

III.

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50 and 73, *It is hereby ordered,* effective immediately, that all licenses identified in attachment 1 to this order are modified as follows:

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The Licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 22, 2002.

B. 1. All Licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensees' justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact safety of the facility must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. 1. All Licensees shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 2.

2. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding the provisions of 10 CFR 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

Licensee responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 50.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific plant; and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order

without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 23rd day of May 2002.
For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Attachment 1—Decommissioning Nuclear Power Plants With Spent Fuel in the Spent Fuel Pool Senior Executive Contacts

Mr. Robert A. Fenech,
Senior Vice President, Nuclear, Fossil, and Hydro Operations,
Big Rock Point Nuclear Plant,
[Docket No. 50–155]
License No. DPR–6,
Consumers Energy Company,
212 West Michigan Avenue,
Jackson, MI 49201.

Mr. K. J. Heider,
Vice President—Operations and Decommissioning,
Haddam Neck Plant,
Connecticut Yankee Atomic Power Co.,
[Docket No. 50–213]
License No. DPR–61,
362 Injun Hollow Road,
East Hampton, CT 06424–3099.

Mr. Gregory Rueger,
Senior Vice President Generation and Chief Nuclear Officer,
Humboldt Bay Power Plant Unit III,
Pacific Gas and Electric Co.,
[Docket No. 50–133]
License No. DPR–7,
Pacific Gas and Electric Company,
77 Beale Street, 32nd Floor,
San Francisco, California 94105.

Mr. Michael Kansler,
Chief Nuclear Officer,
Indian Point Nuclear Generating Unit 1,
[Docket No. 50–003]
License No. DPR–5,
Entergy Nuclear Operations, Inc.,
440 Hamilton Avenue, Suite 12 A,
White Plains, NY 10601.

Mr. William L. Berg,
President & CEO,
La Crosse Boiling Water Reactor,
[Docket No. 50–409]
License No. DPR–45,
Dairy Land Power Cooperative,
3200 East Avenue South,
La Crosse, WI 54601.

Mr. Michael J. Meisner,
Chief Nuclear Officer,
Maine Yankee Atomic Power Station,
[Docket No. 50–309]
License No. DPR–36,
Maine Yankee Atomic Power Company,
321 Old Ferry Road,
Wiscasset, Maine 04578–4922.

Mr. William R. Matthews,
Vice President & Senior Nuclear Executive—Millstone,
Millstone Power Station—Unit 1,
[Docket No. 50–245]
License No. DPR–21,
Dominion Nuclear Connecticut, Inc.,
Rope Ferry Road,
Waterford, CT 06385.

Mr. Steve Redeker,
Manager, Plant Closure & Decommissioning,
Rancho Seco,
[Docket No. 50–312]
License No. DPR–54,
Sacramento Municipal Utility District,
14440 Twin Cities Road,
Herald, CA 95638.

Mr. Harold B. Ray,
Executive Vice President,
San Onofre Nuclear Generating Station, Unit 1,
[Docket No. 50–206]
License No. DPR–13,
Southern California Edison,
8631 Rush Street,
Rosemead, CA 91770.

Mr. Stephen M. Quennoz,
Vice President Power Supply/Generation,
Trojan Nuclear Plant,
[Docket No. 50–344]
License No. NPF–1,
Portland General Electric Company,
121 South West Salmon Street,
Portland, OR 97204.

Mr. Russell A. Mellor,
President,
Yankee Nuclear Power Station,
[Docket No. 50–29]
License No. DPR–3,
Yankee Atomic Electric Company,
19 Midstate Drive, Suite 200,
Auburn, MA 01501.

Mr. John L. Skolds,
President and Chief Nuclear Officer,
Zion Nuclear Power Station, Units 1 and 2,
[Docket Nos. 50–295 & 50–304]
License Nos. DPR–39 & DPR–48,
Exelon Nuclear,
Exelon Generation Company, LLC,
4300 Winfield Road,
Warrenville, IL 60555.

[FR Doc. 02–13469 Filed 5–29–02; 8:45 am]
BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27531]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

May 24, 2002.

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 June 18, 2002, to the Secretary, Securities and Exchange Commission, Washington, D.C. 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 June 18, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Progress Energy, Inc. et al. (70–10035)

Progress Energy, Inc. ("Progress Energy"), a registered holding company, Carolina Power & Light Company ("CP&L"), its wholly-owned utility subsidiary and Eastern North Carolina Natural Gas Company ("Eastern NCNG"), a newly formed company (collectively, "Applicants"), all of 410 South Wilmington Street, Raleigh, NC 27602, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(f) and 13(b) of the Act and rules 45, 54, 87(b), 90 and 91 under the Act.

Progress Energy is registered holding company that owns, directly or indirectly, all of the issued and outstanding common stock of two electric utility subsidiary companies, CP&L and Florida Power Corporation. Florida Power Corporation generates, transmits, purchases and sells electricity in parts of Florida. Progress Energy also owns all of the issued and outstanding common stock of North Carolina Natural Gas Corporation, a gas utility company which serves customers primarily in eastern and south central North Carolina.[1] CP&L is an electric utility company which generates, transmits, purchases and sells electricity in parts of North Carolina and South Carolina. The territory served by CP&L includes a substantial portion of the coastal plain of North Carolina extending to the Atlantic coast between the Pamlico River and the South Carolina border.

[1] *See CP&L Energy, Inc., et al.*, Holding Co. Act Release No. 27284 (Nov. 27, 2000) ("Merger Order").

Progress Energy owns 50% of the issued and outstanding common stock of Eastern NCNG. The remaining 50% is owned by the Albermarle Pamlico Economic Development Corporation ("APEC"), a North Carolina nonprofit corporation created to encourage infrastructure and economic development in eastern North Carolina. Eastern NCNG is currently engaged in developing and constructing a "greenfield" natural gas transmission and distribution system in eastern North Carolina. Eastern NCNG is a newly-formed company that has been granted a certificate of convenience and necessity by the North Carolina Utilities Commission ("NCUC") to provide natural gas service in 14 counties in eastern North Carolina that are not now being served with natural gas.[2] Eastern NCNG will become a "gas utility company" within the meaning of section 2(a)(4) of the Act at such time as it commences deliveries of natural gas.

The transmission and distribution system owned by Eastern NCNG is being designed and constructed and will be operated by CP&L. Gas supply commodity purchases for Eastern NCNG will be arranged and contracted in the gas market by CP&L's Energy Trading Department. Upstream transportation capacity and any long-term supply arrangements will be arranged by CP&L's Term Marketing Department.

Generally, Applicants request authorization for: (1) CP&L to provide intra-system services to Eastern NCNG; (2) Progress Energy to acquire and retain stock of Eastern NCNG as an additional public utility subsidiary;[3] and (3) Progress Energy to provide inter-company loans to Eastern NCNG as more specifically described below.

Specifically, Applicants request authorization for CP&L to provide services to Eastern NCNG under a Construction, Operation and Maintenance Agreement ("Construction Agreement"), under which CP&L would be responsible for the design, engineering and construction of the transmission and distribution facilities to be owned by Eastern NCNG. CP&L would also provide or cause to be provided both day-to-day operating and maintenance services associated with operation of the pipeline facilities and administrative liaison and related services associated with the conduct of its business. Services to be provided by CP&L to Eastern NCNG under the Construction Agreement would be charged at cost in accordance with rules 90 and 91 under the Act and in accordance with the form of service agreement approved by the Commission as part of the Merger Order.

Eastern NCNG is obligated to reimburse CP&L for all costs and expenses that CP&L incurs in constructing and operating the Eastern NCNG gas system. All administrative and general expenses of CP&L would be charged as 3.1% of direct labor expenses under the Construction Agreement. It is estimated that the total cost of constructing the Eastern NCNG natural gas system will be approximately $210.2 million and that when the completed system is fully operational, operating and maintenance expenses (not including the cost of natural gas) will be approximately $3.2 million annually.

Progress Energy has committed to fund 100% of the economic portion of the transmission and distribution facilities of Eastern NCNG (i.e., the portion not funded by the state of North Carolina under a state bond package). Progress Energy proposes to provide the funding for construction of the economic portion of the project primarily through the purchase by Progress Energy of 500 shares of common stock of Eastern NCNG at a price $1.00 per share and through the purchase of 500 shares of Series A Preferred Stock of Eastern NCNG at a price of $44,200.00 per share in cash. The Articles of Incorporation of Eastern NCNG provide that the dividend of the Series A Preferred Stock shall be equal to 8.688% per year. Progress Energy requests authorization to acquire and retain such common stock and preferred stock of Eastern NCNG. Progress Energy's equity investment would be made on a phase by phase basis after the state bond funds have been exhausted. Progress Energy is obligated to invest a total of $7.676 million in the Series A Preferred Stock of Eastern NCNG in 2002. Under the original projections filed with the NCUC, Progress Energy's equity investment would be fully funded in year sixteen.

Additional funding for the construction of the Eastern NCNG transmission and distribution system, if needed, may be provided through unsecured loans from its shareholders, including Progress Energy. Progress Energy and Eastern NCNG request authorization for Progress Energy to make loans to Eastern NCNG from time to time through September 30, 2003 with the total principal amount outstanding at any time not to exceed $30 million. The loans would be made under the terms of a 364-Day Revolving Credit Facility ("Credit Facility") dated June 1, 2001. Interest on any loans by Progress Energy under the Credit Facility would equal the then-current thirty day London Interbank Offered Rate plus 0.30%.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[2] The 14 counties are Dare, Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Washington, Hyde, Tyrrell, Pamlico, Jones, Carteret and Pender.

[3] As indicated in the Merger Order, Eastern NCNG was originally formed as a limited liability company, with CP&L holding a 50% membership interest. Since the merger, Eastern NCNG was converted into a stock corporation and CP&L's 50% interest was transferred to Progress Energy.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45975; File No. SR–Amex–2002–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Requesting Permanent Approval of Pilot Program Eliminating Position and Exercise Limits for XMI and XII Index Options and Related Flex Options

May 23, 2002.

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 12, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex seeks permanent approval of the pilot program that provides for the elimination of position and exercise limits for the Major Market ("XMI") and Institutional ("XII") broad-based index options, as well as FLEX Options on these indexes. On January 3, 2002, the Commission granted a six-month extension of the pilot program until July 3, 2002.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

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 February 1, 1999, the Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the "Pilot Program").[4] The Pilot Program originally ended on February 1, 2001, with extensions for an additional six-month period approved on July 3, 2001 [5] and January 3, 2002,[6] respectively. The purpose of this proposed rule change is to request approval of the Pilot Program on a permanent basis.

The Original Approval Order required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.[7] The Exchange submitted the required report to the Commission on May 22, 2001 in connection with the first six-month extension of the Pilot Program (Amex File No. 2001–31). The report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. The Amex during this review period did not discover any instances where an account maintained an unusually large unhedged position. In addition, during the period from April 2, 2001 through February 28, 2002, the Amex did not experience accounts establishing positions in excess of the standard limit applicable to each index at the time the Pilot Program was approved.[8] Accordingly, the Amex seeks Commission approval to eliminate position and exercise limits for XMI and XII options, as well as related FLEX options, on a permanent basis based on the Amex's experience administering the Pilot Program.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) [10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex 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.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–Amex–2002–31 and should be submitted by June 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Secretary.

[FR Doc. 02–13480 Filed 5–29–02; 8:45 am]

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[4] *See* Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) ("Original Approval Order").

[5] *See* Securities Exchange Act Release No. 44507 (July 3, 2001), 66 FR 36348 (July 11, 2001).

[6] *See* Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

[7] In the Original Approval Order, the Commission stated:

Furthermore, three months prior to the end of the pilot program, Amex will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects that Amex will take prompt action, including timely communications with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999).

[8] Telephone call between Jeffrey P. Burns, Assistant General Counsel, Amex, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, May 21, 2002. At the time the Commission approved the Pilot Program, the position limits for XMI and XII were 34,000 and 200,000, respectively.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45972; File No. SR–Amex–2002–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Amendment No. 3 to a Proposed Rule Change by the American Stock Exchange LLC Relating to Specialist Unit Fees

May 21, 2002.

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 February 7, 2002, the American Stock Exchange LLC ("Exchange" or "Amex") 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. On March 13, 2002, the Amex submitted Amendment No. 1 to the proposed rule change.[3] On March 18, 2002, the Amex submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended by Amendment Nos. 1 and 2, was published in the **Federal Register** on April 17, 2002.[5] The Commission received one comment on the proposed rule change.[6] On May 16, 2002, the Amex submitted Amendment No. 3 to the proposed rule change.[7] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing to modify its Member Fee Schedule to pass through to Amex specialist units any fee paid by the Exchange to a third party in connection with the listing and trading of a security allocated to such specialist unit.

The text of the proposed rule change, as amended, is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, as amended, 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

In connection with the listing and trading of certain securities on the Exchange, the Exchange may be required to pay fees to third parties as a condition to listing. For example, the Exchange may pay license fees to index providers to list index options or exchange-traded funds based on a stock index. The Exchange may also pay other types of fees to third parties in connection with a particular listing.

The Exchange proposes to pass such fees through to the Amex specialist unit allocated a security for which the Exchange pays such fees. This fee, which would be included in the Amex Member Fees Schedule under "Membership Fees," would be applicable to any securities traded on the Exchange for which the Exchange pays a fee in connection with Amex listing or trading, including equities, options, structured products, exchange-traded funds and Trust Issued Receipts.

The Exchange currently imposes license fees on a per transaction basis applicable to specialists and registered options traders in connection with trading of options on the Nasdaq 100 Index Tracking Stock (symbol: QQQ), Nasdaq 100 Index (symbol: NDX), Mini NDX (symbol: MNX), and options on S&P 100 iShares (symbol: OEF). These fees were filed with the Commission in SR–Amex–2001–101.[8] The Exchange represents that it will not pass through fees that the Exchange pays to third parties to the specialist unit, if the Exchange imposes a license fee on a per transaction basis with respect to the allocated security, (*e.g.*, the Options Licensing Fee imposed under the Options Fee Schedule, as described in SR–Amex–2001–101).

The Exchange represents that any fee passed through to the specialist unit pursuant to this filing will reflect only actual costs incurred by the Exchange in connection with Exchange listing or trading of the allocated security. Such fee could be imposed in connection with any security traded on the Exchange, whether a listed security or a security traded pursuant to unlisted trading privileges. The proposed fee is not intended to cover any form of payment for order flow by the Exchange (in the event the Exchange determines to engage in such payment), and any imposition of fees on members or member organizations to permit the Exchange to recoup such payment would be filed separately with the Commission pursuant to Rule 19b–4.[9]

2. Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the Act,[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange believes that the proposed fees are equitable because they would apply to all specialists equally for all third party payments, operate on a cost recovery basis, and could not be reduced or waived by the Exchange.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 12, 2002 ("Amendment No. 1").

[4] *See* letter from Claire McGrath, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 14, 2002 ("Amendment No. 2").

[5] *See* Exchange Act Release No. 45727 (April 10, 2002), 67 FR 18962. Because as described below, the Form 19b–4 submitted in Amendment No. 2 was not complete, the proposed rule change was not considered filed and thus not effective on March 18, 2002.

[6] *See* letter from Brandon Becker, Wilmer, Cutler & Pickering, to Jonathan G. Katz, Secretary, Commission, dated May 2, 2002 ("May 2 Letter"). The Commission notes that the Amex responded to the issues raised in the comment letter in Amendment No. 3 to the proposed rule change. *See infra* Section II.C.

[7] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division, Commission, dated May 16, 2002 ("Amendment No. 3"). In Amendment No. 3, the Amex responded to issues raised by a commenter identified in Item II.C. below. *See also id.* The Amex also elaborated in greater detail in its statement on the burden on competition in Item II.B. below, and modified its statutory basis for the proposed rule change as described in Item II.A.2. below. For purposes of determining the effective date and calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers May 16, 2002 to be the effective date of the proposed rule change, the date the Amex filed Amendment No. 3. 15 U.S.C. 78s(b)(3)(C). *See also* note 5 *supra*.

[8] *See* Securities Exchange Act Release No. 45163 (December 18, 2001), 66 FR 66958 (December 27, 2001).

[9] 17 CFR 240.19b–4.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed Specialist Fee would impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed Specialist Fee would apply to all specialists in all securities traded on the Amex for which the Amex is required to pay a fee to a third party in connection with Amex listing or trading. The Exchange represents that the proposed fee would be for cost recovery only and the Exchange could not waive or reduce the fee.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Susquehanna Investment Group ("Susquehanna") submitted a letter to the Exchange, dated March 1, 2002 regarding Susquehanna's understanding that Amex would propose to file either a new licensing fee or authorize imposition of such a fee in the future. [12] Susquehanna stated that the Amex sought to impose a fee of approximately $5 million in connection with trading of the QQQs, for which Susquehanna is the Amex specialist. Susquehanna stated that a proposal to impose a license fee only on Susquehanna is inconsistent with Sections 6(b)(4), 6(b)(5), and 6(b)(8) of the Act; [13] that such a proposal, to the extent it is an indirect attempt to reallocate the QQQs to another specialist, is inconsistent with Amex Rule 27(f); and that the proposed fee had not been submitted to the Amex Committee Floor Members for review under Section 9.19 of the Amex/NASD Transaction Agreement, which was implemented at the time of the merger of the Amex and the NASD in 1998. Susquehanna also stated that, even if the fee were allocated between the specialist and the crowd, the fee "would make no economic sense" under current competitive market conditions. The Amex responded in writing to the March 1 Letter on April 5, 2002, stating that the Amex Board discussed the issues raised in the March 1 Letter, and expressed its view that Amex management should continue to proceed on its current course.

An additional letter, dated May 2, 2002, was submitted to the Commission on behalf of Susquehanna by Wilmer, Cutler & Pickering [14] regarding SR–Amex–2002–08. The May 2 Letter stated that the Amex's rule change should be abrogated and noticed for comment under Section 19(b)(2) of the Act;[15] that the Amex's filing did not discuss comments made in the March 1 Letter as required by Rule 19b–4 [16] and Form 19b–4 thereunder and did not discuss, in connection with the Statement on Burden on Competition in SR–Amex–2002–08, the March 1 Letter's statement that a licensing fee imposed on Susquehanna would be discriminatory and anti-competitive; and that the filing violates Sections 6(b)(4), 6(b)(5) and 6(b)(8) of the Act [17] and Amex Rule 27(f). On May 14, 2002, Susquehanna submitted a second letter to the Exchange, which the Amex believes is substantially the same as the March 1 Letter, and attached a copy of the May 2 Letter.[18]

The Amex strongly believes that the proposed Specialist Fee falls squarely within existing self-regulatory organization ("SRO") precedent applicable to member fee filings made under Section 19(b)(3)(A) of the Act.[19] The Amex believes that if the Commission were to accept Susquehanna's proposition, SROs would be required to delay imposing revised fees filed under Section 19(b)(3)(A) of the Act [20] based solely on objections by affected members. The Amex believes that this could have a significant adverse effect on an SRO's ability to conduct its business and carry out its responsibilities under the Act, including member firm surveillance, implementation of trading facilities, or development of new products and services.

The Amex believes that the Commission has provided SROs with broad discretion to impose member fees immediately upon filing, including the following recent examples:

1. Marketing and licensing fees imposed on Chicago Stock Exchange specialists, including licensing fees for ETF products; [21]

2. Options Clearing Corporation license fee imposed on clearing members for use of risk management software package; [22]

3. New York Stock Exchange ("NYSE") Regulatory Fee, under which specialists pay a total of $16 million per year to be allocated among specialist firms based on the number of memberships affiliated with each specialist firm; [23]

4. NYSE specialist allocation fee, with a maximum of $250,000 per allocation; [24] and

5. Boston Stock Exchange ("BSE") pass through to specialists of all third party fees billed to BSE on behalf of specialists trading Nasdaq securities.[25]

The Exchange believes the proposed fee change is consistent with Sections 6(b)(4), 6(b)(5), and 6(b)(8) of the Act,[26] as discussed below.

1. Section 6(b)(8) of the Act.[27] The Amex believes that the proposed Specialist Fee would impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Amex represents that the proposed Specialist Fee would apply to all specialists in all securities traded on the Amex for which the Amex is required to pay a fee to a third party in connection with Amex listing or trading. The Amex asserts that the proposed fee would be for cost recovery only and the Exchange could not waive or reduce the fee. The Exchange understands that the Nasdaq Stock Market imposes a license fee on other exchanges that trade the QQQ pursuant to unlisted trading privileges, and such fee is being, or can be, passed on to the specialist on at least one regional exchange. The May 2 Letter states that increased costs to specialists "hinders their ability to offer a competitive spread" and is, therefore, inconsistent with Section 6(b)(8) of the Act.[28] The Exchange's rules governing specialists require the specialist to make fair and orderly markets under prevailing market conditions. The Amex believes that the existence of, or the level of, particular Exchange fees should be irrelevant to any consideration of the

[12] *See* letter from Jeffrey Yass, Managing Director, Susquehanna, to Salvatore F. Sodano, Chairman and Chief Executive Officer, Amex, dated March 1, 2002 ("March 1 Letter").

[13] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[14] *See* May 2 Letter, note 6 *supra*.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 240.19b–4.

[17] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[18] *See* letter from Jeffrey Yass, Managing Director, Susquehanna, to Salvatore F. Sodano, Chairman and Chief Executive Officer, Amex, dated May 14, 2002.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 45282 (January 15, 2002), 67 FR 3517 (January 24, 2002) (SR–CHX–2001–30).

[22] *See* Securities Exchange Act Release No. 45028 (November 6, 2001), 66 FR 57141 (November 14, 2001) (SR–OCC–2001–13).

[23] *See* Securities Exchange Act Release No. 43726 (December 14, 2000), 65 FR 82428 (December 28, 2000) (SR–NYSE–2000–57).

[24] *See* Securities Exchange Act Release No. 43700 (December 11, 2000), 65 FR 79147 (December 18, 2000) (SR–NYSE–2000–48).

[25] *See* Securities Exchange Act Release No. 44971 (October 23, 2001), 66 FR 54557 (October 29, 2001) (SR–BSE–2001–06).

[26] 15 U.S.C. 78f(b)(4), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(8).

[27] 15 U.S.C. 78f(b)(8).

[28] *Id.*

appropriateness of the specialist's quoted market.

2. Section 6(b)(4) of the Act.[29] The Amex believes that the proposed Specialist Fee does not violate Section 6(b)(4) of the Act[30] requirements regarding equitable allocation of dues and other charges. The Amex represents that the proposed fees would be equitable because they would apply to all specialists equally for all third party payments, operate on a cost recovery basis, and could not be reduced or waived by the Exchange. The Amex believes that the Commission has not historically involved itself with the level of fees set by an SRO for its members as long as they are equitably applied.

3. Section 6(b)(5) of the Act.[31] The Amex believes that the proposed Specialist Fee does not violate Section 6(b)(5) of the Act[32] requirements that an SRO's rules avoid unfair discrimination among dealers and promote just and equitable principles of trade. The Amex believes that the proposed Specialist Fee would not be unfairly discriminatory against Susquehanna as the QQQ specialist. As specialist, Susquehanna has the principal Exchange obligations with respect to QQQ under Amex rules, and also has the potentially largest financial reward of any member group. The Amex believes that the Act does not require that all exchange fees, or any fee in particular, be allocated among all member groups, or to all members permitted to trade a product. The Exchange, in exercise of its appropriate business discretion consistent with its SRO responsibilities under the Act, has determined that the specialist unit allocated a security should assume the burden of third party fees required to be paid by the Exchange to list a particular product.

4. Amex Rule 27(f). The Amex believes that allegations of indirect reallocation are wholly unfounded. In the event of reallocation proceedings for QQQ, or any other security, the Exchange would follow the requirements of Amex Rule 27(f).

5. The Amex/NASD Transaction Agreement. The March 1 letter also asserts that Amex Committee Floor Members are required to review the fee under Section 9.19 of the Amex/NASD Transaction Agreement. The Amex represents that the proposed Specialist Fee would not be the type of fee to which Section 9.19 applies. The Exchange also notes that the Amex in recent years has increased a number of member fees to better align Exchange fees with the actual cost of delivering services and reduce Exchange subsidization of such services.[33] The Amex believes that the proposed Specialist Fee would be consistent with reduced or eliminated subsidies.

[29] 15 U.S.C. 78f(b)(4).

[30] *Id.*

[31] 15 U.S.C. 78f(b)(5).

[32] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has become effective on May 16, 2002[34] pursuant to Section 19(b)(3)(A)(ii) of the Act[35] and subparagraph (f)(2) of Rule 19b–4[36] thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of May 16, 2002, 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.[37]

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, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, 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 Amex. All submissions should refer to File No. SR–Amex–2002–08 and should be submitted by June 21, 2002.

[33] *See e.g.*, Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002) (SR–Amex–2001–102); and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001) (SR–Amex–2001–22).

[34] *See supra* note 5.

[35] 15 U.S.C. 78s(b)(3)(A)(ii).

[36] 17 CFR 240.19b–4(f)(2).

[37] *See* 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13482 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–P

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45974; File No. SR–Amex–2001–65]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 3 and 4 to the Proposed Rule Change Relating to the Implementation of Quick Trade

May 22, 2002.

I. Introduction

On August 22, 2001, the American Stock Exchange LLC ("Amex") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement Quick Trade, an enhancement to the Amex Order File ("AOF") and Amex Options Display Book ("AODB").[3] On October 19, 2001 and December 4, 2001, respectively, the Amex filed Amendment Nos. 1 and 2 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 31, 2001.[4] The Commission received no comments on the proposal. On April 23, 2002 and May 7, 2002, respectively, the Amex filed Amendment Nos. 3 and 4 to the proposed rule change.[5] This order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The AODB is the Exchange's specialist's book.

[4] *See* Securities Exchange Act Release No. 45180 (December 20, 2001), 66 FR 67585 ("Notice").

[5] *See* Letters from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 25, 2002 and May 6, 2002, respectively. In Amendment No. 3, the Amex added proposed rule text to codify the ratios that would be used by Quick Trade in allocating orders among the specialist and registered options traders; eliminated "Sweep of the Book" as one of the proposed functions for which Quick Trade would be used; and elaborated on the manner in which the opening price for an options series is established. In Amendment No. 4, the Amex amended the proposed rule text submitted in Amendment No. 3 to clarify that Quick Trade would allocate orders on a rotating basis in lots of ten contracts or less. *See* more at *infra* note and accompanying text.

approves the proposed rule change, accelerates approval of Amendment Nos. 3 and 4, and solicits comments from interested persons on those amendments.

II. Description of the Proposal

Currently, for orders executed through the AODB in which some or all of the contra-parties are registered options traders, the specialist or the specialist's clerk must manually allocate the contracts to those registered options traders participating in the trade. The Amex states that, for option classes with large trading crowds, the procedure can be very time consuming and can delay the processing of trades.

The Amex thus proposes to implement a feature, to be known as "Quick Trade," that would automate the process of allocating trades for the three situations described below, and thereby obviate the need for the specialist or the specialist's clerk to allocate the trades manually in those situations.

Quick Trade would allocate trades by means of a rotational wheel, as further detailed below. Registered options traders would be able to log on to the Quick Trade wheel through the AOF, and the specialist would be able to activate the wheel at the opening of trading and throughout the day. While registered options traders would not be required to participate in Quick Trade, they would be encouraged to sign on and remain on the Quick Trade wheel throughout the trading day. Each registered option trader signed on to Quick Trade would have the ability to advise the specialist, prior to the feature's activation on any given trade, that he or she does not want to receive an allocation through Quick Trade. In this situation, and in the situation where a registered options trader wishes to participate in a given trade but is not signed on to Quick Trade, the specialist would not use Quick Trade to allocate the trade but would allocate the trade manually.[6]

The Quick Trade wheel would allocate executed orders of ten or fewer contracts among the specialist and registered options traders in accordance with the ratios set forth below. If an executed order is greater than ten contracts, Quick Trade would divide the execution into lots of ten (or fewer) and allocate a lot to each participant in the rotation. Each lot would be considered a separate trade for purposes of Quick Trade allocations.

ALLOCATION RATIO[7]

Number of traders on Quick Trade	Approximate percentage of trades allocated to the specialist	Approximate percentage trades allocated to the traders (as a group)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

[7] The ratios set forth below were described in the Notice in terms of the number contracts allocated to the specialist and traders. In Amendment No. 4, Amex proposed new rule text to codify these ratios, expressing them in terms of the percentage of trades allocated to the specialist and traders. This reflects the rotational system described above, in which orders are divided into lots of ten or fewer contracts, with the allocation wheel rotating one turn for each lot.

Quick Trade would provide automated allocation of trades for three AODB functions:

(1) Quick Openings. The Amex states that a specialist opens trading in each options series by establishing an opening price for that series based on the market orders to buy and sell and the prices of limit orders prior to the opening, and executing by pairing off all market and marketable limit orders at this price.[8] If, after all opening orders have been paired off, an imbalance exists, Quick Trade would automatically allocate the imbalance of executed contracts to the specialist and registered options traders signed on to Quick Trade in accordance with the ratios set forth above.

(2) Block Window. The Amex represents that this function enables a specialist, in situations when there are limit orders on the book at various prices, to execute such limit orders at a single price.[9] For example, assume the specialist has limit orders on the book to sell at $5.00, $5.05, $5.10, $5.15, and $5.20, and these orders represent in aggregate 50 contracts. The specialist has determined to buy all 50 contracts at $5.20. The contracts would be allocated by Quick Trade to the specialist and registered traders in accordance with the ratios set forth above.

(3) Auto-Match. According to the Exchange, the Auto-Match feature of AODB automatically matches and executes market and marketable limit orders that have bypassed the Exchange's automatic execution system ("Auto-Ex") with limit orders on the AODB. This feature is proposed to be modified to include registered options trader participation when an imbalance occurs.[10] Quick Trade would distribute the imbalance among the specialist and registered options traders. For example, assume the best bid is represented by a limit order to buy 10 contracts in an option class in which the Auto-Ex eligible size is 20 contracts. A market order of 20 contracts to sell bypasses Auto-Ex and is routed to the AODB. Ten contracts would be matched and executed with the limit order and the remaining 10 contracts would be allocated through Quick Trade to the specialists and registered options traders in accordance with the allocation ratios set forth above.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of Section 6 of the Act[11] and the rules and regulations thereunder.[12] The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[13] because it will enable the Exchange to automate a process that until now has been performed manually, thus enhancing the speed and efficiency with which the allocation of trades can be effected.

The Commission further believes that it is reasonable to allocate to the specialist the percentage of trades specified in the chart above, in view of the specialist's obligations under Exchange rules. The Commission notes that the proposed entitlement would never be greater than 40 percent (except in the one case where only one registered options trader is participating

[6] As indicated above, the specialist would have the ability to determine on a trade-by-trade basis whether to use Quick Trade or to allocate the contracts manually. However, once Quick Trade was activated, it would be assumed to remain on and would be used to allocate contracts in all the functions described below, unless the specialist informed the crowd that he was turning it off. See Notice, at note 5.

[8] *See* Amendment No. 3.

[9] The Amex represents that the specialist unilaterally determines this clean-up price. Telephone conversation between Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, and Ira L. Brandriss, Special Counsel, Division, Commission, on May 16, 2002.

[10] *See* Securities Exchange Act Release No. 42652 (April 7, 2000), 65 FR 20235 (April 14, 2000) (notice of immediate effectiveness of proposed rule change relating to Auto-Match, in which Amex indicated that this function would be enhanced to allow the excess portion of an Auto-Ex eligible order to be allocated to the specialist and any registered options traders participating in the crowd).

[11] 15 U.S.C. 78f.

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of a national securities exchange be designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

in the trade). The Commission has found with respect to participation guarantees in other contexts that 40 percent is not inconsistent with statutory standards of competition and free and open markets.[14] In addition, the Commission believes that the allocation of orders among the specialist and registered options traders on a rotating basis, as described above, is consistent with the Act.

The Commission finds good cause for approving Amendment Nos. 3 and 4 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 strengthens the proposed rule change in that it would codify the proposed allocation ratios as part of the Exchange's rules.[15] The removal in Amendment No. 3 of "Sweep of the Book" as a Quick Trade function, on account of the inability of the system's technology to accommodate that function, poses no regulatory issues. Amendment No. 4 simply clarified the operation of the rotating wheel to be used by Quick Trade. The Commission believes that accelerating approval of these amendments will enable the Amex to expeditiously implement a feature that may serve to enhance the speed and efficiency of its marketplace.

Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5)[16] and 19(b)(2)[17] of the Act to accelerate approval of Amendments Nos. 3 and 4 to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 3 and 4, including whether Amendment Nos. 3 and 4 are 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 Amex. All submissions should refer to File No. SR–Amex–2001–65 and should be submitted by June 20, 2002.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[18], that the proposed rule change (File No. SR–Amex–2001–65) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13622 Filed 5–29–02; 8:45 am]

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[14] *See, e.g.*, Securities Exchange Act Release Nos. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) at 11398; and 43100 (July 31, 2000), 65 FR 48778 (August 9, 2000) at notes 96–99 and accompanying text.

[15] The Commission is approving Quick Trade only with respect to its implementation for the "Quick Openings," "Block Window," and "Auto-Match" features described herein.

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45967; File No. SR–CBOE–2002–22]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to a Pilot Program To Give the Index Floor Procedure Committee the Authority To Permit Broker-Dealer Orders for Options on the QQQs to be Executed on RAES

May 20, 2002.

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 26, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. CBOE submitted Amendment No. 1 to the proposed rule change on May 3, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised Exhibit 1 to conform to the requirements of the Act. *See* letter from Madge M. Hamilton, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 2, 2002 ("Amendment No. 1").

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Interpretations and Policies .01 of CBOE Rule 6.8 to give the Index Floor Procedure Committee ("IFPC"), on a six-month pilot, the authority to permit broker-dealer orders for options on Nasdaq-100 Index® Tracking Stock ("QQQ") to be executed on the Exchange's Retail Automatic Execution System ("RAES"). Below is the text of the proposed rule change. Proposed new language is italicized.

Rule 6.8

* * * * *

* * * Interpretations and Policies:

.01 [[Reserved.]] a. *Notwithstanding 6.8(c)(ii), for a six-month pilot period ending [insert date six months from approval of proposed rule change], the Index Floor Procedure Committee may determine to allow the following types of orders for options on Nasdaq-100 Index® Tracking Stock ("QQQ") to be executed on RAES:*

1. Broker-dealer orders; or

2. Broker-dealer orders that are not for the accounts of market-makers or specialists on an exchange who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Securities Exchange Act of 1934.

b. Broker-dealer orders entered through the Exchange's order routing system will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to Rule 7.4.

c. If the Index Floor Procedure Committee permits broker-dealer orders to be automatically executed in the QQQ pursuant to this Interpretations and Policies .01 of Rule 6.8, then it may also permit the following with respect to such orders:

1. The maximum order size eligibility for the broker-dealer orders may be less

than the applicable order size eligibility for non-broker-dealer orders.

2. *Non-broker-dealer orders may be eligible for automatic execution at the NBBO pursuant to Interpretations and Policies .02 of Rule 6.8, while broker-dealer orders are not so eligible.*

d. *CBOE market-makers must assure that orders for their own accounts are not entered on the Exchange and represented or executed in violation of the following provisions: Interpretations and Policies .02 of Rule 6.55 and Interpretations and Policies .06 of Rule 8.9 (concurrent representation of a joint account), Rule 6.55(concurrent representation of a market-maker account), and Section 9 of the Securities Exchange Act of 1934 (wash sales).*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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

CBOE proposes to amend CBOE Rule 6.8 by adding a new Interpretation and Policy .01, which would establish a six-month pilot program that would give the IFPC the authority to allow orders for the accounts of brokers or dealers to be executed on RAES. [4] According to the CBOE, this proposed rule change mimics the Pacific Exchange's ("PCX") Rule 6.87(a), which was approved by the Commission on November 6, 2001.[5]

The proposed rule change would permit IFPC to allow RAES access in the options on QQQ for (1) all broker-dealer orders or (2) broker-dealer orders, except for market-makers and specialists who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Act.[6] In addition, broker-dealer orders would not be automatically executed against the limit order book, but would be rerouted to a floor broker for execution in the crowd. The broker-dealer orders could not be placed in the limit order book.

RAES currently distinguishes between customer and non-customer orders based upon the order origin information required to be provided as part of each order. Manual and electronic order tickets must specify, for each order, a valid order origin code which designates whether the order is, for example, for a "non-broker-dealer public customer" account, a "firm" account, a "market-maker" account, or a "broker-dealer" account by the designators "C", "F", "M", or "B" respectively. These designators are intended to assure that orders executed on CBOE clear into the proper margin accounts at the Options Clearing Corporation. They are also intended to assure that the orders are handled in a manner that is consistent with various CBOE rules, such as eligibility for placement in the limit order book (CBOE Rule 7.4(b)), order identification requirements (CBOE Rule 6.24), priority of bids and offers (CBOE Rule 6.45), firm quote size guarantees (CBOE Rule 8.51), and eligibility for RAES (CBOE Rule 6.8). Currently only orders with "C" designators are allowed on RAES. The proposed rule change would give the IFPC the discretion to allow orders for the QQQ with "F", "M", or "B" designators on RAES.

IFPC would also have the authority to permit the maximum order size for broker-dealer orders for the QQQs that are executed on RAES to be set at a lower level than the RAES size requirement for non-broker-dealer orders. IFPC would also be able to allow non-broker-dealer orders for the QQQs to be eligible for automatic execution at the National Best Bid or Offer ("NBBO") pursuant to Interpretations and Policies .02 of CBOE Rule 6.8, while broker-dealer orders for the QQQs that are RAES eligible would not be eligible for automatic step-up unless so authorized by IFPC. Unless automatic step-up executions on RAES are authorized by IFPC for RAES eligible broker-dealer orders, such orders would be rejected from RAES and re-routed for manual handling by a floor broker.

If CBOE market-makers and other broker-dealer accounts are permitted to enter orders on RAES, they must assure that orders for their accounts do not violate any of the following CBOE Rules: CBOE Rule 6.55 Interpretation and Policy .02 and CBOE Rule 8.9, regarding multiple representation of orders for market-maker accounts and joint accounts; CBOE Rule 6.55, which prohibits a market-maker from entering or being present in a trading crowd while a floor broker present in the trading crowd is holding an order on behalf of the market-maker's individual account or account in which the market-maker has an interest, unless the market-maker or floor broker cancels the order pursuant to Interpretation .01 of such rule; and Section 9 of the Act,[7] which prohibits wash sales. In other words, a market-maker or broker-dealer would be prohibited from "dual representation." This prohibition against "dual representation" would be violated, for example, in the following situation: A market-maker in the XYZ trading crowd enters an order in XYZ options for his or her own account with a floor broker (via telephone, electronically or in-person), and the floor broker then represents the order while the market-maker is still present in the XYZ trading crowd. A similar violation would occur if, under the proposed rule change, a market-maker in the XYZ trading crowd initiated an order in XYZ options with his or her upstairs brokerage firm and the brokerage firm then routed the order to the CBOE, where it was either automatically executed or defaulted for manual handling by a floor broker. In either case, the market-maker will have violated CBOE Rule 6.55 (even if the order is automatically executed via RAES). Likewise, if the market-maker were trading in person for a joint account in that situation, and that same market-maker initiated the order on behalf of the same joint account which order was then routed to the CBOE for execution then that market-maker would have violated CBOE Rule 6.55 and CBOE Rule 8.9 Interpretation and Policy .06, which provide a similar prohibition on concurrent representation when a market-maker is trading in a joint account. Furthermore, if a market-maker enters an order for his or her own account with a brokerage firm, and the order is routed to CBOE where it is executed against the same

[4] The Exchange represented that this proposal is consistent with the interim intermarket options linkage. Telephone conversation among Madge Hamilton, Legal Division, CBOE, Angelo Evangelou, Legal Division, CBOE, Kelly Riley, Senior Special Counsel, Division, Commission, and Jennifer Lewis, Attorney, Division, Commission, on May 10, 2002.

[5] *See* Exchange Act Release No. 45032, 66 FR 57145 (November 14, 2001). According to the CBOE, this proposed rule change has minor differences from the PCX rule to accommodate for the differences in rule numbers and the names of the automatic execution systems. In addition, PCX Rule 6.87(b)(2)(C) has not been included in CBOE's proposed rule change. Under the PCX rule, the PCX Options Floor Trading Committee may determine that when the NBBO is crossed and locked, broker-dealer orders will be re-routed for manual representation. CBOE will treat customer orders and broker-dealer orders in the same manner when the NBBO is crossed and locked.

[6] 15 U.S.C. 78g(c)(2).

[7] 15 U.S.C. 78i.

market-maker's account via RAES or as a result of an open outcry trade, there will be a possible "wash sale" rule violation regardless of whether the trade was subsequently nullified.

For competitive reasons, the CBOE believes that it is appropriate, in the limited context of options on QQQs, to give the IFPC the discretion to permit broker-dealers orders to be entered and executed on RAES.[8] The CBOE is proposing to implement this rule on a six-month pilot basis, so that it can evaluate the program and determine what changes, if any, should be made. In addition, the CBOE believes that options on the QQQs are the appropriate product to use in the pilot, given the unique nature of this product and its liquidity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest. The CBOE believes that the proposed rule change could enhance competition for the automatic execution of the orders of broker-dealers in options on the QQQs. The CBOE also believes that this pilot program will give the Exchange the ability to evaluate the appropriateness of competing for orders of the accounts of broker-dealers in this manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 CBOE. All submissions should refer to File No. SR–CBOE–2002–22 and should be submitted by June 20, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.[13]

The Commission finds that the proposed rule change should allow the Exchange to improve the efficiency with which orders for the accounts of broker-dealers in options on the QQQs are currently executed. Currently, broker-dealer orders are not eligible to receive automatic execution in RAES. By providing broker-dealers with access to RAES for orders for options on QQQs, the Exchange should enhance executions in options on QQQs. Specifically, broker-dealer orders for options in QQQs that are RAES eligible should receive faster executions. By providing prompt execution for broker-dealer orders for options in QQQs, the proposal may help attract broker-dealer options orders to the Exchange, and thus help to improve the depth and liquidity of the Exchange's options market.

The Commission notes that CBOE represented that RAES has sufficient capacity to handle the processing of the potential increased order flow.[14] The Commission expects that during the six-month pilot period, the Exchange will monitor RAES in light of the additional order flow and will implement any necessary systems enhancements to accommodate any increase in volume resulting from this proposal.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Both the Philadelphia Stock Exchange[15] and PCX permit, to some extent, broker-dealer orders to be executed on their automatic execution systems. Accordingly, the Commission believes that no new issues are being raised by CBOE's proposed rule change. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6 and 19(b) of the Act.[16]

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CBOE–2002–

[8] This Rule gives discretion to IFPC to permit broker-dealer orders for options on QQQs to be executed on RAES by saying that IFPC "may determine to allow" these orders to be executed on RAES. Under the proposed rule change, if IFPC voted to permit broker-dealer orders that are not for the account of market makers or specialists on an exchange who are exempt from Regulation T to be executed on RAES for options on the QQQs, pursuant to CBOE Rule 6.8.01(a)(2), it could at a later time determine pursuant to CBOE Rule 6.8.01(a)(1) that all broker-dealer orders could be executed on RAES for options on the QQQs. Or, it could determine that broker-dealer orders for options on QQQs will no longer be permitted to be executed on RAES.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] The Exchange submitted a letter to the Division representing that the proposal is consistent with Section 11(a) of the Act and Rule 11a2–2(T) under the Act. *See* letter to Catherine McGuire, Chief Counsel, Division, Commission, from Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated April 25, 2002. In response to the Exchange's request, Commission staff has provided interpretive guidance to the Exchange under Section 11(a) of the Act, 15 U.S.C. 78k(a). *See* letter from Paula R. Jenson, Deputy Chief Counsel, Division, Commission, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, dated May 16, 2002.

[14] Telephone conversation between Madge Hamilton, Legal Division, CBOE and Kelly Riley, Senior Special Counsel, Division, Commission, on May 8, 2002.

[15] *See* Securities Exchange Act Release No. 45758 (April 15, 2002), 67 FR 19610 (April 22, 2002).

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78s(b)(2).

22), as amended, is approved on a six-month pilot basis, until November 15, 2002, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13481 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45980; File No. SR–ISE–2002–07]

Self-Regulatory Organizations; International Securities Exchange LLC; Order Granting Approval to Proposed Rule Change Relating to Mandatory System Testing

May 23, 2002.

On February 13, 2002, the International Securities Exchange LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to mandatory systems testing. Specifically, the ISE proposed a new rule, ISE Rule 419 ("Mandatory Systems Testing"), to allow the Exchange to designate certain systems tests as mandatory for specified classes of members and to discipline members that failed to engage in a mandatory test. In addition, the Exchange proposed modifications to ISE Rule 1614 ("Imposition of Fines for Minor Rule Violations") to set forth the applicable fines for a member's failure to engage in a mandatory systems test under ISE Rule 419.

The proposed rule change was published for comment in the **Federal Register** on April 17, 2002.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the Commission believes that the proposal is consistent with Section 6(b)(6) of the Act,[7] which requires the Exchange's rules to provide that its members and persons associated with its members be appropriately disciplined for violation of the provisions of the Act, the rules or regulations thereunder, or the rules of the Exchange.

The Commission believes that the rule change should improve ISE's ability to work closely with its members in testing new systems changes in a timely manner. In addition, the Commission believes that the rule change should allow the Exchange to ascertain whether its members' systems are compatible with the Exchange's systems, which should benefit ISE's members as well as investors that transact business on the Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–ISE–2002–07) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–13483 Filed 5–29–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3418]

State of Illinois

As a result of the President's major disaster declaration on May 21, 2002, I find that Alexander, Clay, Clinton, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Washington, Wayne, White and Williamson Counties in the State of Illinois constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on April 21, 2002 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 20, 2002 and for economic injury until the close of business on February 21, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bond, Clark, Crawford, Cumberland, Jersey, Lawrence, Macoupin, Montgomery, Shelby and Wabash in the State of Illinois; Gibson and Posey Counties in the State of Indiana; Ballard, Crittenden, Livingston, McCracken and Union Counties in the Commonwealth of Kentucky; and Cape Girardeau, Jefferson, Mississippi, Perry, Scott, St. Charles, St. Louis and Ste. Genevieve Counties and the Independent City of St. Louis in the State of Missouri.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury: Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341811. For economic injury the number is 9P7800 for Illinois; 9P7900 for Indiana; 9P8000 for Kentucky; and 9P8100 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 22, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–13456 Filed 5–29–02; 8:45 am]

BILLING CODE 8025–02–P

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 45726 (April 10, 2002), 67 FR 18964.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is hereby given that Chapter S4 which covers the Office of the Deputy Commissioner, Systems, is being amended to reflect a reorganization. Notice is given that the following Subchapters are being deleted:

Subchapter S4G, The Office of Systems Design and Development
Subchapter S4J, The Office of Systems Planning and Integration
Subchapter S4K, The Office of Information Management
Subchapter S4N, The Office of Information Technology Architecture
Subchapter S4P, The Office of Systems Analysis

Notice is further given that the following Subchapters are being established:

Subchapter S4R, The Office of Disability and Supplemental Security Income
Subchapter S4S, The Office of Earnings, Enumeration and Administrative Systems
Subchapter S4V, The Office of Enterprise Support Architecture and Engineering
Subchapter S4W, The Office of Retirement and Survivors Insurance Systems

Also, Subchapter S4M, The Office of Systems Electronic Services is being amended to reflect a realignment. The Division of Client and Organizational Services Application Development (S4MB) is being abolished. The functions of this division are being distributed to two new divisions. The Division of Project Support (S4ME) is also being abolished. The functions of this division are moving to a new front office staff. The Office of Telecommunications and Systems Operations is excluded from this realignment. The new material and changes are as follows:

Section S4.00 The Office of the Deputy Commissioner, Systems—(Mission)

Replace: Mission Statement with the following:

The Office of the Deputy Commissioner, Systems (ODCS) directs the conduct of systems and operational integration and strategic planning processes, and the implementation of a comprehensive systems configuration management, data base management and data administration program. Initiates software and hardware acquisition for SSA and oversees software and hardware acquisition procedures, policies and activities. Directs the development of operational and programmatic specifications for new and modified systems, and oversees development, validation and implementation phases.

Section S4.10 The Office of the Deputy Commissioner, Systems—(Organization)

Replace: C. with the following:

C. The Immediate Office of the Deputy Commissioner, Systems (S4C).

1. The Budget Staff (S4C–1)
2. The Planning Staff (S4C–2)
3. The Systems Acquisition and Contract Management Staff (S4C–3)

Delete: E. through J.

Add: E. through I.

E. The Office of Systems Electronic Services (S4M).

F. The Office of Disability and Supplemental Security Income Systems (S4R).

G. The Office of Earnings, Enumeration and Administrative Systems (S4S).

H. The Office of Enterprise Support Architecture and Engineering (S4V).

I. The Office of Retirement and Survivors Insurance Systems (S4W).

Section S4.20 The Office of the Deputy Commissioner, Systems—(Functions)

Replace: C. with the following:

C. The Immediate Office of the Deputy Commissioner, Systems provides the Deputy Commissioner with management support on the full range of his/her responsibilities to include budget, planning, systems acquisition, audit liaison, and recruitment, administrative, and senior technical support.

1. The Budget Staff (S4C–1) develops the Information Technology Systems Budget for Systems, prepares the detailed budget submission and develops monitoring and tracking systems.

2. The Planning Staff (S4C–2) directs and conducts comprehensive integration and systems planning processes and is responsible for long-range planning and analyses to define new and improved systems processes in support of Agency requirements and maintains a comprehensive, updated and integrated set of system requirement specifications.

3. The Systems Acquisition and Contract Management Staff (S4C–3) is responsible for the technical and business review of Information Technology acquisitions and for the management of major Information Technology support service contracts for the Deputy Commissioner for Systems.

Delete: E. through J.

Add: E. through I.

E. The Office of Systems Electronic Services (OSES) (S4M) directs the development of the SSA-wide mission critical software applications that support the Agency's Electronic Service Delivery (ESD) initiatives. It performs long range planning and analysis, and the design, development, implementation and maintenance of eGovernment solutions in support of SSA's social insurance and income maintenance programs. These applications will provide access to SSA services over such service delivery channels as the Internet, Extranet, 800# and future direct service data collection channels. It provides a means for the public to have direct access to selected SSA services. It directs the coordination of general systems requirements definition among key SSA stakeholders, and representatives of the user community. It maintains a comprehensive software engineering program that provides tools, and a software infrastructure in support of SSA's eGovernment development goals. It defines the agency standards for Internet software development. It conducts software validation and testing for all Internet software solutions required to run on, or extract data from, any of SSA's host processor's or its mission critical systems and creates the necessary ESD management information to satisfy SSA's global management information requirements.

F. The Office of Disability & Supplemental Security Income Systems (ODSSIS) (S4R) directs, develops and coordinates information technology requirements, application programs and management information systems for new and modified systems in direct support of the SSI, Disability and Representative (Rep) Payee programs. ODSSIS is responsible for most phases in the systems development life cycle. These responsibilities include determining automation solutions for user needs, developing software systems specifications, analyzing existing computer applications, preparing recommendations (including costs and benefits of alternatives), software design and development, testing and validating systems, implementing security standards, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. ODSSIS is responsible for long-range planning and analyses to define new and improved systems processes for ODSSIS in support of Agency needs and maintains a comprehensive, updated and integrated set of system requirement specifications and software programs. ODSSIS inplements systems required by new legislation, regulations and SSA

policy directives. Based on input from users, ODSSIS translates organizational information requirements and priorities into plans and, develops and maintains systems plans. ODSSIS validates computer programs that are part of SSA's large, integrated, programmatic systems against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It develops procedures and instructions to support user needs in effective implementation of all systems.

G. The Office of Earnings, Enumeration and Administrative Systems (OEEAS) (S4S) designs, develops, and maintains SSA's earnings, enumeration and administrative systems. Responsibilities include the development of functional requirements for new systems and modifications to existing systems. The office evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure that user needs are accurately captured and defined. The office develops automated solutions, including the procurement of commercial software products. It tests and validates software to assure that user requirements have been met, and conducts post-implementation reviews of new systems. The broad systems areas for which OEEAS is responsible include: enumeration (SSN) and verification, earnings establishment and employer data, integrity review and audit, work measurement, financial processing and accounting, human resource and payroll, a variety of workload control and tracking applications, and data exchanges with external entities.

H. The Office of Enterprise Support, Architecture and Engineering (OESAE) (S4V) identifies the strategic information technology resources needed to support SSA business processes and operations and the transition processes for researching, demonstrating and implementing new technologies in response to the Agency's strategic vision. The office develops policies and procedures to implement the Section 508 legislation Agency-wide. It incorporates user-centered design principles and techniques, including usability and accessibility testing, as an integral part of the systems development life cycle to ensure that the requirements of SSA's customers and users are being met. It directs the design, development and maintenance of SSA's information technology architecture program and directs SSA's data base integration activities to improve the administration of SSA's Programmatic and Management Information/Administrative data bases and to implement modern data base management systems technology. The office directs a comprehensive information technology architecture program to modernize the Agency's infrastructure and establishes enterprise policies for the management of all hardware and software. It develops and oversees the implementation of legislative initiatives, standards, methods and procedures for software planning, requirements, design, development and validation. OESAE plans and directs multi-platform software development facilities to support applications development and validation personnel. The office designs, develops, implements and maintains automated test methods, test data systems and test utilities for systems-level functional and user acceptance testing of programmatic, administrative and management information systems. It provides support for project management and control and resource management. OESAE develops the requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems. The office plans for, acquires and administers technical training for systems and non-systems personnel.

I. The Office of Retirement and Survivors Insurance Systems (ORSIS) (S4W) is responsible for programmatic and management information systems which support the Nation's Retirement and Survivors Insurance program and Medicare enrollment, including initial claims, post-entitlement, payments, audit, integrity review, Treasury operations and notices. ORSIS designs, develops, coordinates and implements new or redesigned software to meet SSA's automation needs in the broad area of title II programmatic processes for such areas as earnings, eligibility/entitlement, pay/computations and debt management. The Office is responsible for long-range planning and analysis to modify existing systems and define new systems for ORSIS in support of the Agency's mission and operational and management information needs. It evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops requirements and procedures to implement required changes. ORSIS is responsible for both programmatic and management information applications through each stage of the systems lifecycle, including: determining automation solutions for user needs; developing software specifications; designing and developing software programs; testing and validating systems against user-defined requirements; conducting post-implementation reviews; implementing security standards; and maintaining a comprehensive, updated and integrated set of systems requirements, specifications and software documentation. Procedures and instructions are developed to support users in effectively implementing all systems.

Delete Subchapters S4E through S4P.

Add: Subchapters S4M, S4R, S4S, S4V and S4W:

Subchapter S4M

Office of Systems Electronic Services

{Private "TYPE=PICT; ALT=blue bar"}

S4M.00 Mission
S4M.10 Organization
S4M.20 Functions

Section S4M.00 The Office of Systems Electronic Services—(Mission)

The Office of Systems Electronic Services (OSES) directs the development of the SSA-wide mission critical software applications that support the Agency's Electronic Service Delivery (ESD) initiatives. It performs long range planning and analysis, and the design, development, implementation and maintenance of eGovernment solutions in support of SSA's social insurance and income maintenance programs. These applications will provide access to SSA services over such service delivery channels as the Internet, Extranet, 800# and future direct service data collection channels. It provides a means for the public to have direct access to selected SSA services. It directs the coordination of general systems requirements definition among key SSA stakeholders, and representatives of the user community. It maintains a comprehensive software engineering program that provides tools, and a software infrastructure in support of SSA's eGovernment development goals. It defines the Agency standards for Internet software development. It conducts software validation and testing for all Internet software solutions required to run on, or extract data from, any of SSA's host processor's or its

mission critical systems and creates the necessary ESD management information to satisfy SSA's global management information requirements.

Section S4M.10 The Office of Systems Electronic Services— (Organization)

The Office of Systems Electronic Services (S4M), under the leadership of the Associate Commissioner for Systems Electronic Services, includes:

A. The Associate Commissioner for Systems Electronic Services (S4M).

B. The Deputy Associate Commissioner for Systems Electronic Services (S4M).

C. The Immediate Office of the Associate Commissioner for Systems Electronic Services (S4M).

1. The Project Support Staff (S4M–1)

D. The Division of Architecture and Support Software Development (S4MA).

E. The Division of Quality, Testing and Validation (S4MC).

F. The Division of Client Services Application Development (S4MG).

G. The Division of Organizational Services Application Development (S4MH).

Section S4M.20 The Office of Systems Electronic Services—(Functions)

A. The Associate Commissioner for Systems Electronic Services (S4M) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSES mission and providing general supervision to the major components of OSES.

B. The Deputy Associate Commissioner for Systems Electronic Services (S4M) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Electronic Services (S4M) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of his/her responsibilities.

1. The Project Support Staff (S4M–1):

A. Analyzes eGovernment requirements and needs of other OSES components, and provides appropriate systems support capability.

B. Provides standards, procedures, systems support and technical assistance to OSES project managers to facilitate preparation of work plans.

C. Directs review of project work plans to ensure completeness, compatibility with standards and managerial directives, and requirements and conformity to the ADP Plan and other management decisions.

D. Monitors OSES workloads, resource estimates and resource usage for eGovernment applications. Provides comprehensive resource information to DCS management to support workload priority decisions. Directs resource estimation and reporting processes for OSES.

E. Coordinates OSES input to Agency and DCS planning processes.

D. The Division of Architecture and Support Software Development (S4MA).

1. Develops and maintains the software engineering architecture appropriate for delivering eGovernment services to SSA's customers in accordance with the Agency's Electronic Service Delivery (ESD) Strategy.

2. Identifies and procures software tools necessary for the design, development, implementation and maintenance of SSA's eGovernment applications.

3. Designs, develops and maintains eGovernment framework components of the architecture for data interface, security, authentication, management information, audit and messaging objects.

4. Researches, evaluates and analyzes current and emerging technologies relevant to SSA's eGovernment architecture.

5. Designs, develops and maintains repositories to support eGovernment application development.

E. The Division of Quality, Testing and Validation (S4MC).

1. Develops project specific test plans in support of SSA's eGovernment strategy.

2. Performs front-end systems validations as necessary to support implementation of eGovernment software.

3. Develops, maintains, and implements quality control standards in support of the development of eGovernment software.

4. Designs, develops and maintains software for the testing, validation and quality control of eGovernment applications.

5. Works in conjunction with other SSA components in conducting pilots and focus groups testing eGovernment software prior to implementation.

F. The Division of Client Services Application Development (S4MG).

1. Plans, designs, develops and maintains Government-to-Client Internet software integral to SSA's eGovernment Internet strategy.

2. Plans, designs, develops and maintains Government-to-Client Internet software integral to SSA's eGovernment Extranet strategy.

3. Defines specific functional specifications in support of SSA's Government-to-Client eGovernment applications.

4. Coordinates SSA's Government-to-Client Internet applications development with legacy and management information systems.

G. The Division of Organizational Services Application Development (S4MH).

1. Plans, designs, develops and maintains Government-to-Government and Government-to-Business Internet software integral to SSA's eGovernment strategy.

2. Plans, designs, develops and maintains Government-to-Government and Government-to-Business Extranet software integral to SSA's eGovernment strategy.

3. Defines specific functional specifications in support of SSA's eGovernment applications.

4. Coordinates eGovernment applications development with legacy and management information systems.

Subchapter S4R

Office of Disability and Supplemental Security Income Systems

S4R.00 Mission
S4R.10 Organization
S4R.20 Functions

Section S4R.00 Office of Disability and Supplemental Security Income Systems (ODSSIS)—(Mission)

The Office of Disability and Supplemental Security Income Systems (ODSSIS) directs, develops and coordinates information technology requirements, application programs and management information systems for new and modified systems in direct support of the SSI, Disability and Representative (Rep) Payee programs. ODSSIS is responsible for most phases in the systems development life cycle. These responsibilities include determining automation solutions for user needs, developing software systems specifications, analyzing existing computer applications, preparing recommendations (including costs and benefits of alternatives), software design and development, testing and validating systems, implementing security standards, documenting systems, accepting systems on behalf of SSA's user community and conducting post-installation evaluation. ODSSIS is responsible for long-range planning and analyses to define new and improved systems processes for ODSSIS in support of agency needs and maintains a comprehensive, updated and integrated set of system requirement specifications and software programs. ODSSIS implements systems required

by new legislation, regulations and SSA policy directives. Based on input from users, ODSSIS translates organizational information requirements and priorities into plans and develops and maintains systems plans.

ODSSIS validates computer programs that are part of SSA's large, integrated, programmatic systems against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It develops procedures and instructions to support user needs in effective implementation of all systems.

Section S4R.10 Office of Disability and Supplemental Security Income Systems—(Organization)

The Office of Disability and Supplemental Security Income Systems (S4R), under the leadership of the Associate Commissioner for Disability and Supplemental Security Income Systems, includes:

A. The Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

B. The Deputy Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

C. The Immediate Office of the Associate Commissioner for Disability and Supplemental Security Income Systems (S4R).

D. The Division of SSI Processing Systems (S4RA).

E. The Division of SSI Management Systems (S4RB).

F. The Division of SSI Information Systems (S4RC).

G. The Division of Disability Processing Systems (S4RE).

H. The Division of Disability Management Systems (S4RG).

I. The Division of Disability Information Systems (S4RH).

J. The Division of Electronic Processing Support (S4RJ).

Section S4R.20 Office of Disability and Supplemental Security Income Systems—(Functions)

A. The Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) is directly responsible to the Deputy Commissioner, Systems, for carrying out the ODSSIS mission and providing general supervision to the major components of ODSSIS.

B. The Deputy Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Disability and Supplemental Security Income Systems (S4R) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of their responsibilities.

D. The Division of SSI Processing Systems (S4RA):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, software, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for title XVI (SSI) and title XVIII processes. Edits new records and transactions; maintains and updates the SSI Master File to reflect changes; computes both the Federal SSI benefit and State supplementary payments; identifies and controls overpayment activity; and controls diaries.

2. With the technical assistance of the Office of Enterprise Support and Architecture Engineering (OESAE), plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-term SSI programmatic initiatives for Initial Claims and Post-entitlement Updates and Computations.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI initial claims and post-eligibility operations, computation and record balancing operations.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI and title VIII processes. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI and title VIII process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

E. The Division of SSI Management Systems (S4RB):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, software, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for title XVI (SSI) and title XVIII processes including payment, internal interface, due process and redetermination operations. This includes updates to and selections from the Supplemental Security Income Record (SSR).

2. With the technical assistance of OESAE, plans and conducts unit and system-wide functional validation tests of newly developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic systems. Develops plans as they relate to SSI & title VIII redeterminations, interfaces, due process & payments.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI redeterminations, internal interfaces, due process and payments.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI and title VIII processes. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI and title VIII process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

F. The Division of SSI Information Systems (S4RC):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment, for title XVI (SSI) and VIII Notices, SSI Interfaces and SSI Management Information.

2. With the technical assistance of OESAE Validation staff, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to SSI Notices, SSI Interfaces and SSI Management Information. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for SSI Notices, SSI Interfaces and SSI Management Information.

6. Evaluates legislative proposals, regulations and policy changes affecting SSI Notices, SSI Interfaces and SSI Management Information. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing SSI Notices, SSI Interfaces and SSI Management Information process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. The Division of Disability Processing Systems (S4RE):

1. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Disability Program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the Disability program.

2. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Disability.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Disability.

6. Evaluates legislative proposals, regulations and policy changes affecting SSA's Disability program. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Disability process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Supports Individual State Disability Determination Service offices automated systems development by establishing national practices and contracts and optional local area software. The Division evaluates State Disability Determination Systems development requests with the objective of integrating State efforts into overall SSA automation plans.

10. Resolves systems discrepancies and performance issues for all DDS offices, Federal and State. The State DDS systems interface with SSA central systems. The division is responsible for testing and validation of applications software that exchanges the required disability data between the offices involved.

H. The Division of Disability Management Systems (S4RG):

1. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Disability Program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the Disability program, including service to the State Disability Determination Service (DDS) offices.

2. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to disability. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Disability.

6. Evaluates legislative proposals, regulations and policy changes affecting disability. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing disability process with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

9. Supports individual State Disability Determination Service offices automated systems development by establishing national practices and contracts and optional local area software. The Division evaluates State Disability Determination Services development requests with the objective of integrating State efforts into overall SSA automation plans.

10. Resolves systems discrepancies and performance issues for all DDS offices, Federal and State. The State DDS systems interface with SSA central systems. The division is responsible for testing and validation of applications software that exchanges the required disability data between the offices involved.

11. Builds quality assurance computer systems for the payment stewardship, index of dollar accuracy (IDA) and other servicing quality assessment activities. These system help monitor all levels (initial, reconsideration, and hearing) of social security program administration.

I. The Division of Disability Information Systems (S4RH):

1. Produces automated solutions that provide management information supporting the Agency's Disability Insurance program. Designs, develops and maintains computer systems that collect, process and distribute Disability MI.

2. Designs, develops and maintains computer systems that support SSA's Hearings, Appeals, Litigation and Rep Payee workloads. Produces enterprise-wide automation solutions that provide for data capture workload control and management information for SSA's Title II and Title XVI Hearings, Appeals, Litigation and Rep Payee workloads.

3. Plans, analyzes, designs, develops, tests, validates, and implements new or redesigned software to meet SSA Rep Payee program needs. Also, evaluates programmatic information and data requirements, writes functional specifications, procedures, instructions and standards (including security and fraud detection) for the disability program, including service to the Office of Hearings and Appeals (OHA) and the Office of the General Counsel.

4. With the technical assistance of the OESAE, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

5. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Hearings, Appeals, Litigation and Rep Payee. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

6. Develops and maintains a comprehensive, updated and integrated set of system documentation, source code for programmatic software and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

7. Performs requirement analyses, defining SSA-approved user needs, determines system design alternatives and documents requirements for automated data processing services for Rep Payee.

8. Evaluates legislative proposals, regulations and policy changes affecting Rep Payee. Reports on the impact to those processes as well as on the short and long-range plans.

9. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Rep Payee process with representatives of other Office of Systems components.

10. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

11. Resolves systems discrepancies and performance issues for all OHA offices.

J. The Division of Electronic Processing Support (S4RJ):

1. Plans, analyzes, designs, develops, tests, validates, implements and evaluates programmatic data requirements, functional specifications, procedures, instructions and standards (including security and fraud detection) in conformance with SSA's software engineering environment for Hearings, Appeals, Litigation, and Customer Help and Information Program (CHIP).

2. With the technical assistance of OESAE, plans and conducts unit testing, integrated testing and unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development as they relate to Hearings, Appeals, Litigation, and CHIP. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for Hearings, Appeals, Litigation, and CHIP.

6. Evaluates legislative proposals, regulations and policy changes affecting Hearings, Appeals, Litigation, and CHIP software. Reports on the impact to those processes as well as on the short- and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing Hearings, Appeals, Litigation, and CHIP processes with representatives of other Office of Systems components.

8. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

Subchapter S4S

Office of Earnings, Enumeration and Administrative Systems

S4S.00 Mission
S4S.10 Organization
S4S.20 Functions

Section S4S.00 The Office of Earnings, Enumeration and Administrative Systems—(Mission)

The Office of Earnings, Enumeration and Administrative Systems (OEEAS) is responsible for the design, development, and maintenance of SSA's earnings, enumeration and administrative systems. Responsibilities include the development of functional requirements for new systems and modifications to existing systems. The office evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure that user needs are accurately captured and defined. The office develops automated solutions, including the procurement of commercial software products. It tests and validates software to assure that user requirements have been met, and conducts post-implementation reviews of new systems.

The broad systems areas for which OEEAS is responsible include: enumeration (SSN) and verification, earnings establishment and employer data, integrity review and audit, work measurement, financial processing and accounting, human resource and payroll, a variety of workload control and tracking applications, and data exchanges with external entities.

Section S4S.10 The Office of Earnings, Enumeration and Administrative Systems—(Organization)

The Office of Earnings, Enumeration and Administrative Systems (S4S), under the leadership of the Associate Commissioner for Earnings, Enumeration and Administrative Systems, includes:

A. The Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

B. The Deputy Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

C. The Immediate Office of the Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S).

1. The Independent Verification and Validation Staff (S4S–1).

D. The Division of Measurement and Control Systems (S4SA).

E. The Division of Information and Integrity Systems (S4SB).

F. The Division of Financial and Human Resource Systems (S4SC).

G. The Division of Enumeration and Exchanges (S4SE).

H. The Division of Annual Wage Reporting and Balancing (S4SG).

I. The Division of Earnings Correction and Use (S4SH).

Section S4S.20 The Office of Earnings, Enumeration and Administrative Systems—(Functions)

A. The Associate Commissioner for Earnings, Enumeration and Administrative Systems (OEEAS) (S4S) is directly responsible to the Deputy Commissioner, Systems for carrying out OEEAS' mission and provides general supervision to the major components of OEEAS.

B. The Deputy Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Earnings, Enumeration and Administrative Systems (S4S) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of his/her responsibilities.

1. The Independent Verification and Validation Staff (S4S–1).

A. Responsible for using a system engineering process that employs a variety of software engineering methods, techniques, and tools for evaluating the correctness and quality of a software product throughout its life cycle to support OEEAS' project development.

B. Responsible for planning, validation, and implementation of the broad range of systems, methods, and procedures necessary to support the independent verification and validation of OEEAS' systems processes.

C. Develops project specific test/validation plans in support of OEEAS' systems.

D. Works closely with the component responsible for the Independent Validation Environment (IVEN) to schedule the execution of Independent Verification and Validation (IV&V) test/validation plans in support of OEEAS' projects.

E. Performs complete systems validations as necessary to support implementation of earnings, enumeration, administrative and control systems software. Provides the IV&V findings and recommendations to the project team and project manager.

F. Develops, maintains, and implements quality control standards in support of the development of earnings, enumeration, administrative and control systems.

G. Works in conjunction with other SSA components in conducting pilots and focus groups testing OEEAS systems prior to implementation.

D. The Division of Measurement and Control Systems (S4SA).

1. Performs requirements analyses and software development activities for control and tracking systems, and other administrative support systems.

2. Develops functional requirements and validations for audit and integrity review systems within programmatic applications and for SSA-wide work measurement systems.

3. Performs requirements analyses and develops earnings and enumeration management information application systems and enhancements to existing systems.

4. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

5. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

6. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

7. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

E. The Division of Information and Integrity Systems (S4SB)

1. Designs, develops, and implements application systems and enhancements to existing systems to support work

measurement, quality assurance, integrity reviews and audit and internal controls.

2. Responsible for data warehouse development and maintenance in support of Agency systems. Maintains the data warehouse repository which houses data definition, calculations, and transformation and business rules in support of performance measures. Runs data mining software to identify patterns for potential fraud.

3. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

4. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

5. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

6. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

F. The Division of Financial and Human Resource Systems (S4SC).

1. Designs, develops, and implements administrative application systems and enhancements to existing systems in the broad areas of financial/budget, human resources and payroll processes.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software. Evaluates the potential application of Commercial-off-the-Shelf and Government-developed-off-the-Shelf software.

3. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

G. The Division of Enumeration and Exchanges (S4SE).

1. Designs, develops and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of enumeration and data exchanges.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services for enumeration and data exchange. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and software programs to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

H. The Division of Annual Wage Reporting and Balancing (S4SG).

1. Designs, develops and implements new or redesigned systems to meet SSA's automated data processing needs in the broad area of annual employer wage reporting.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and systems to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

I. The Division of Earnings Correction and Use (S4SH).

1. Designs, develops, and implements new or redesigned systems to meet SSA's automated data processing needs in the broad area of correcting, maintaining and using earnings and employer data.

2. Performs requirements analyses, defining SSA-approved user needs and requirements for automated data processing services. Evaluates legislative proposals, regulations and policy changes and reports on the impact on existing processes and systems. Evaluates the need to develop new software.

3. Develops design specifications and systems to satisfy user needs as defined in requirements documentation.

4. With the technical assistance of IV&V, plans and conducts unit and system-wide functional validation tests of newly-developed systems and modifications to existing systems against user defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications.

5. Develops and maintains a comprehensive, updated and integrated set of system documentation, requirements specifications and validation tests of systems changes against user requirements and performance criteria. Certifies that changes are in conformance with specifications for assigned areas of responsibility.

Subchapter S4V

Office of Enterprise Support, Architecture and Engineering

S4V.00 Mission
S4V.10 Organization
S4V.20 Functions

Section S4V.00 Office of Enterprise Support, Architecture and Engineering—(Mission)

The Office of Enterprise Support, Architecture and Engineering (OESAE) identifies the strategic information technology resources needed to support SSA business processes and operations and the transition processes for researching, demonstrating and implementing new technologies in response to the Agency's strategic vision. The office develops policies and procedures to implement the Section 508 legislation Agency-wide. It incorporates user-centered design principles and techniques, including usability and accessibility testing, as an integral part of the systems development life cycle to ensure that the requirements of SSA's customers and users are being met. It directs the design, development and maintenance of SSA's information technology architecture program and directs SSA's data base integration activities to improve the administration of SSA's Programmatic and Management Information/Administrative data bases and to implement modern data base management systems technology. The office directs a comprehensive information technology architecture program to modernize the Agency's infrastructure and establishes enterprise policies for the management of all hardware and software. It develops and oversees the implementation of legislative and other initiatives, standards, methods and procedures for software planning, requirements, design, development and validation. OESAE plans and directs multi-platform software development facilities to support applications development and validation personnel. The office designs, develops, implements and maintains automated test methods, test data systems and test utilities for systems-level functional and user acceptance testing of programmatic, administrative and management information systems. It provides support for program/project management and control and resource management. OESAE develops the requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems. The office plans for, acquires and administers information technology training for systems and non-systems personnel.

Section S4V.10 Office of Enterprise Support, Architecture and Engineering—(Organization):

The Office of Enterprise Support, Architecture and Engineering (OESAE) (S4V), under the leadership of the Associate Commissioner for Enterprise Support, Architecture and Engineering, includes:

A. The Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V).

B. The Deputy Associate Commissioners for Enterprise Support, Architecture and Engineering (S4V).

C. The Immediate Office of the Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V).

D. The Division of Enterprise Architecture and Data Administration (S4VA).

E. The Division of Data Base Systems (S4VB).

F. The Division of Enterprise Software Engineering Infrastructure (S4VC).

G. The Division of Systems Engineering (S4VE).

H. The Division of Usability, Security and Application Support (S4VG).

I. The Division of Configuration Management and Validation Technology (S4VH).

Section S4V.20 Office of Enterprise Support, Architecture and Engineering—(Functions)

A. The Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OESAE mission and providing general supervision to the major components of OESAE.

B. The Deputy Associate Commissioners for Enterprise Support, Architecture and Engineering (S4V) assist the Associate Commissioner in carrying out his/her responsibilities and perform other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Enterprise Support, Architecture and Engineering (S4V) provides the Associate Commissioner and Deputy Associate Commissioners with management assistance, technology leadership, planning, systems process improvement, customer relations, and support for legislation and other initiatives on the full range of their responsibilities.

D. The Division of Enterprise Architecture and Data Administration (S4VA).

1. Works with SSA technical staff to define application, data and infrastructure architectures.

2. Develops and provides the infrastructure to generate notices that meet SSA standards.

3. Supports the Online Notice Retrieval System (ONRS) and the Field Office Notice System (FONS).

4. Maintains the Central Language Repository for all notice language used by SSA.

5. Provides notice generation and formatting of manual notice processing.

6. Works with business components to identify and coordinate enterprise-wide technology needs and projects.

7. Directs the development of Systems-wide data and process administration policies, procedures and standards for the specific phases of the life cycle development process and development of methods to assure the quality of systems products.

8. Directs the integration of data and process models, as well as software designs.

9. Directs the development of requirements for standardizing data collection, storage and use across application areas.

10. Provides program expertise and process management direction and oversight for crosscutting segments for all SSA systems initiatives, legislative initiatives or projects involving the initiation, interpretation and/or the implementation of administrative and programmatic systems.

11. Provides a variety of high level coordinative, analytical, consultative and advisory services to SSA as a whole relative to very visible and complex systems initiatives.

E. The Division of Data Base Systems (S4VB).

1. Develops and maintains the Data Resource Management System which is the official repository of data and metadata for the SSA programmatic systems.

2. Develops and maintains the Master Data Access Method (MADAM) software that manages the major programmatic master files.

3. Directs the development and enforcement of technical standards and data resource policies.

4. Directs the establishment of automated documentation products and analytical products to support software engineering and data base integration.

5. Directs the definition of data storage architectures to support data management based upon performance characteristics and capabilities required in the SSA environment.

6. Directs the design, development (or acquisition), validation, and implementation of data base management systems and data support software.

7. Directs the design and development of new or modified software for accessing SSA data bases and files used in ADP processes; and directs the selection and implementation of commercial packages for this purpose.

8. Provides direction in the design, development and implementation of applications support software to facilitate interaction between data bases and applications software.

9. Provides direction in identifying techniques and tools that support data resource management as well as evaluating new data resource technology to the SSA environment.

10. Provides overall management and development of access to SSA's major master files.

11. Performs design, data base administration, and technical support of the major master files, and auxiliary programmatic applications files and data bases using multiple commercial database management systems.

12. Directs the analyses of SSA processes and software related to data usage and administration.

13. Directs the development of project plans reflecting the tasks and schedules required to implement data base management and data administration projects as designated by SSA's Software Modernization Plan.

14. Serves as the Agency focal point for technologies related to document imaging, electronic document management and electronic workflow processes.

15. Provides direction in the design, development and implementation of applications support software to facilitate interaction between document imaging and workflow processing and applications software.

16. Directs the definition of data and image management to facilitate workflow processing and re-engineering of processes to support data management based upon performance characteristics and capabilities required in the SSA environment.

F. The Division of Enterprise Software Engineering Infrastructure (S4VC).

1. Manages the multi-platform Software Engineering Facility (SEF) environment which includes Mainframe, Client Server/Web (Internet/Intranet) platforms, Server/Workstation and mobile computing configurations, SEF environment electronic mail, and transaction processing software configurations (e.g., CICS) which provide an integrated set of automated tools, techniques and services in support of SSA's application development and validation community.

2. Administers and engineers software engineering laboratory (SEL) facilities which provide a wide range of IWS/LAN based hardware and software solutions for developers and validators of Client/Server and Web-based (Internet/Intranet) applications. SEL provides test sites for Client/Server and web ideas, concepts, news technology and code without interfering with production Client/Server or Web-based systems. Facilities include real connections from the Internet into a pseudo web site allowing secure testing of live Internet technology, a simulated Internet inside the firewall allowing for complete multi-platform internet applications to be built, joint application design center for real time collaborative planning, analysis and design activities, labs for evaluating user centered design features and technology and complete testing facilities for employees with disabilities configurations.

3. Administers and engineers SEF environment servers, workstations, and mobile devices such as laptops for the software engineering components in Systems. This includes both hardware and software configurations used by application software engineers and their management.

4. Manages SSA's Information Center that provides technical support and guidance in client based technology, tools and products for the enterprise.

5. Manages and coordinates a security program for the SEF environment which includes administration/configuration and management of SEF environment security software, control of SEF environment access, security auditing; disaster recovery; Continuity of Operations Planning (COOP) for SEF server-based equipment, and coordination of security initiatives with other components.

6. Provides support for both programmatic and management information applications throughout each phase of the systems development life cycle including analysis, design, development, validation, testing, production and maintenance.

7. Provides automated software configuration management, quality control and library migration for all SEF environment platforms.

8. Provides technical assistance to users of the SEF environment that includes help desk and automated call tracking, technical information dissemination, and support for software tools used by the SSA programming community.

9. Serves as liaison between the SEF user community and the computer center to ensure that user needs are being met.

10. Conducts performance evaluation and capacity planning for SEF environment hardware and software to ensure that appropriate service levels are continuously maintained.

11. Conducts testing and performance impact analysis of new or upgraded software engineering tools before they are installed in the SEF environment.

12. Manages the SEF environment storage capacity including server and mainframe storage devices.

G. The Division of Systems Engineering (S4VE).

1. Assesses new technologies and plans for, acquires and administers information technology training for systems personnel. Maintains and operates the Systems training facilities.

2. Provides program/project management and integration support for DCS executives, managers and project teams. Develops and implements web-based systems and subsystems to communicate status, progress and problems for all "key" programs/projects.

3. Provides process analysis, re-engineering, and web development in support of SSA's Capital Planning and Investment Control, high-priority projects and Software Process Improvement (SPI) initiatives. Provides the facility and technical expertise to facilitate Joint Application Design for Systems.

4. Manages a modern multi-media center, the Systems Management Center (SMC), for the Deputy Commissioner for Systems. Schedules and provides technical support for meetings, conferences, teleconferencing/videoconferencing, vendor product demonstrations, etc. Develops multi-media presentations and productions.

5. Develops and supports a Technology Infusion Process lifecycle, a process for identifying and evaluating technologies that will enable SSA to achieve its strategic objectives.

6. Monitors, researches, and evaluates technologies related to achieving SSA's Service Vision.

7. Serves as the DCS entry point for providing Systems services to business components interested in demonstrating and evaluating the potential of new technologies to support SSA's service vision.

8. Designs, develops and implements Web sites for OESAE and DCS, i.e., the Project Resource Guide (PRIDE), the

Architecture Review Board, information technology workforce planning, etc.

9. Provides QA oversight review for the Software Process Improvement program.

H. The Division of Usability, Security and Application Support (S4VG):

1. Establishes and coordinates efforts on Section 508 compliance and serves as a principal planner and advisor in the development of Agency and government-wide Section 508 directives, standards, specifications, policies, implementation strategies, management guidelines, procedures, practices and new developments and advanced techniques.

2. Performs a key role in very difficult assignments with responsibility and accountability as a technical authority and advisory in information technology accessibility, covering a wide range of technology and applications.

3. Integrates Section 508 accessibility needs into Agency budget plans, strategic plans and information technology capital plans.

4. Directs the user-centered design processes including usability and accessibility testing for software and web-based applications.

5. Develops OS Security Policy and Implementation Guidance, as needed.

6. Establishes and manages OS' ITS security awareness and training program, including developing and teaching some courses.

7. Provides a focal point for Financial Management Systems reviews and other audits/reviews not under the jurisdiction of the DCS audit liaison.

8. Manages routine security-related compliance activities (e.g., updating, reviewing and/or establishing sensitive systems security plans annually).

9. Responsible for Principal Security Officer functions for Systems.

10. Provides a Systems' focal point for Continuity of Operations (COOP) planning initiatives related to PDD 67 compliance.

11. Makes recommendations on security, audit, and internal control issues for all SSA programmatic and administrative systems, and ensures the implementation of security standards within all areas of component functional responsibilities. Develops methods to improve control and security features based on established standards and cost/benefit considerations.

12. Leads and/or coordinates reviews of programmatic processes and systems to identify weaknesses in control, auditability and security. Makes recommendations for improvement and coordinates activities with other SSA components to ensure that approved recommendations are implemented.

13. Manages a secure, service-oriented test facility responsible for providing automated support for fraud investigations, audits and analytical studies for OIG, GAO and all levels of SSA management.

14. Provides requirements for and performs security, functional security, and access control validations to ensure that the requirements have been properly integrated with SSA's programmatic and administrative systems.

15. Recommends and approves requests for systems access including TOP SECRET access.

16. Develops, implements and maintains personal computer applications to support software development/validation; e.g., the Problem and Issues Reporting System (PAIRS), Validation Transaction Tracking System (VTTS), METRIX Activity Reporting Subsystem (MARS), the TSTRAC (Top Secret Tracking System) system for automated control of security matrix changes, the Information Technology Systems Plan system, and various utility and administrative systems.

17. Provides a wide range of support for knowledge engineering tools, including CASE (Computer Aided Software Engineering) tools, used for requirements definition, management, and analysis. Support includes defining requirements, procuring, testing, upgrading, and integrating tools into the SSA environment and lifecycle. Develops guidelines, procedure manuals and course materials; providing direct consultative services to project teams; assists project teams in generating their lifecycle documentation and reports; and provides ongoing training.

18. Manages the acquisition, customization, license administration, and distribution of Commercial and Government Off-the-Shelf (COTS and GOTS) software providing support to software development staff. Provides or obtains technical support for tools.

I. The Division of Configuration Management and Validation Technology (S4VH):

1. Develops Office of Systems global software change control policies and practices.

2. Designs, develops, maintains and manages global repositories of systems development life cycle products.

3. Records and reports the status of software change request items and verifies the completeness of life cycle products.

4. Designs, develops, maintains and oversees automated software migration methods to ensure segregation of duties under the Federal Financial Management Improvement Act of 1996 (FFMIA).

5. Provides life cycle documentation to internal and external auditors on request.

6. Designs, develops and maintains publication methodologies for the Modernized Systems Operations Manual.

7. Designs, develops, implements, and maintains automated test methods, techniques, and procedures, test files, test databases, and tester productivity tools used in the systems-level functional, integration, acceptance and usability testing of SSA's programmatic, administrative, and management information systems.

8. Builds test systems that simulate the target production system within the parameters of SSA's Software Engineering Facility using in-house and commercially available software development tools and products.

9. Controls and executes systems-level functional tests of programmatic, administrative, and management information systems; ensures that the correct software versions are under test and provides appropriate test output for evaluation and systems acceptance and certification.

10. Develops test procedure specifications and test design specifications for use in systems-level functional testing.

11. Performs test case design for regression testing of programmatic systems.

12. Performs software quality assurance and quality control regarding test coverage and test risk analysis as they relate to management decisions to release new or modified software to the production environment.

13. Develops standards of functional testing and software validation for the Office of Systems.

14. Develops and manages the environment in which functional testing occurs.

15. Defines standards for test planning and participates, along with other Office of Systems components, in the development of test plans for systems-level functional testing.

16. Serves as the Manager for the Software Evaluation Stage of SSA's Software Engineering Environment and Systems Development Life Cycle.

Subchapter S4W

Office of Retirement and Survivors Insurance Systems

PRIVATE "TYPE=PICT;ALT=blue bar"

S4W.00 Mission

S4W.10 Organization
S4W.20 Functions

Section S4W.00 Office of Retirement and Survivors Insurance Systems—(Mission)

The Office of Retirement and Survivors Insurance Systems (ORSIS) is responsible for programmatic and management information systems which support the Nation's Retirement and Survivors Insurance program and Medicare enrollment, including initial claims, post-entitlement, payments, audit, integrity review, Treasury operations and notices. ORSIS designs, develops, coordinates and implements new or redesigned software to meet SSA's automation needs in the broad area of title II programmatic processes for such areas as earnings, eligibility/entitlement, pay/computations and debt management. The Office is responsible for long-range planning and analysis to modify existing systems and define new systems for ORSIS in support of the Agency's mission and operational and management information needs. ORSIS evaluates the effect of proposed legislation, policies, regulations and management initiatives to determine the impact on these systems and develops requirements and procedures to implement required changes. ORSIS is responsible for both programmatic and management information applications through each stage of the systems lifecycle, including: determining automation solutions for user needs; developing software specifications; designing and developing software programs; testing and validating systems against user-defined requirements; conducting post-implementation reviews; implementing security standards; and maintaining a comprehensive, updated and integrated set of systems requirements, specifications and software documentation. Procedures and instructions are developed to support users in effectively implementing all systems.

Section S4W.10 Office of Retirement and Survivors Insurance Systems—(Organization)

The Office of Retirement and Survivors Insurance Systems (S4W), under the leadership of the Associate Commissioner for Retirement and Survivors Insurance Systems, includes:

A. The Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

B. The Deputy Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

C. The Immediate Office of the Associate Commissioner for Retirement and Survivors Insurance Systems (S4W).

D. The Division of Notices and Management Information Systems (S4WA).

E. The Division of Payments & Accounting (S4WB).

F. The Division of Title 2 Eligibility (S4WC).

G. The Division of Title 2 Processing (S4WE).

H. The Division of Title 2 Control and Queries (S4WG).

Section S4W.20 Office of Retirement and Survivors Insurance Systems—(Functions)

A. The Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) is directly responsible to the Deputy Commissioner, Systems, for carrying out the ORSIS mission and providing general supervision to the major components of ORSIS.

B. The Deputy Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Retirement and Survivors Insurance Systems (S4W) provides the Associate Commissioner and Deputy Associate Commissioner with administrative staff assistance, technology leadership, planning and customer relations support on the full range of their responsibilities.

D. The Division of Notices & Management Information Systems (S4WA).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of specialized support for Notices.

2. Provides support for notice language development and maintenance, notice generation and formatting, manual notice processing and notice storage and retrieval.

3. Develops SSA-wide work measurement and performance management systems, as well as component work measurement systems for the field, State agencies and Regional Program and Integrity Review offices.

4. Develops audit and analyses of management information systems and reports to ensure adherence to users' and Agency needs, Federal and SSA guidelines and integrity standards.

5. Plans, develops and coordinates management information policy and integration among all involved SSA components, and plans for the transition to, and integration with, current SSA automated information systems and with those of the future.

6. Designs, develops, coordinates and implements new management information application systems and enhancements to existing systems which include workload management, work measurement, program demographics, earnings and employee/employer statistics, support quality assurance, audit, investigations, action tracking, and actuarial activities.

7. Designs, develops and implements enterprise-wide assignment tracking and document management applications in the IWS/LAN environment.

8. Develops systems to support the quality assurance and quality control reviews performed by the Office of Quality Assurance and Performance Assessment at the central office, regional office and satellite office level.

9. Manages the planning, validation and implementation of the broad range of systems, methods and procedures necessary to support the administrative or programmatic management information systems processes.

10. Performs user needs analyses and develops detailed functional requirements for SSA's mainframe and client server programmatic and administrative systems.

11. Manages ORSIS' project management process; provides standards, procedures, training and technical assistance to project managers.

E. The Division of Payments and Accounting (S4WB).

1. Responsible for the planning and analysis, design, development, testing, validation, implementation and evaluation of programmatic data requirements, functional specifications, new or redesigned software, instructions, procedures and standards needed to support title II infrastructure, Master Beneficiary Record updates, payments & accounting and debt management.

2. Designs, develops, coordinates and implements new or revised software to meet SSA's automated data processing needs in the area of data gathering, data base establishment and maintenance for programmatic post-entitlement, payments, debt management and Treasury operations.

3. Designs software to edit transactions, control in-process and stored transactions, produce monthly benefit payment information and yearly benefit payment statements and provide Treasury data.

4. Manages the planning, validation and implementation of the broad range of systems methods and procedures

necessary to maintain payment and accounting systems.

5. Performs user needs analysis and develops detailed functional requirements for SSA's title II mainframe systems.

6. Conducts liaison with other SSA components and Federal agencies to determine feasibility and to plan development and implementation activities.

F. The Division of Title II Eligibility (S4WC).

1. Responsible for planning, analysis, design, development, testing, validation, implementation and evaluation of programmatic data requirements, functional specifications, new or redesigned software, instructions, procedures, and standards (including security and fraud detection), for title II (RSI) initial claims and post-entitlement systems processing, and for title XVIII Medicare enrollment, withdrawal and termination actions. Coordinates such processes with the Centers for Medicare and Medicaid (CMS).

2. Plans and conducts unit tests and system-wide functional validation tests of newly developed title II systems software, and modifications to existing systems software, against user-defined requirements and performance criteria. Certifies that the changes are in conformance with functional specifications and with Agency regulations, policies, and procedures.

3. Participates in the development, maintenance and coordination of the overall approved SSA plans for fulfilling short-term and long-range programmatic system development (the systems Information Technology (IT) Plans) as they relate to title II initial claims and post-entitlement/Medicare systems. This includes determining, classifying and ranking systems needs of all SSA components, and recommending final priorities for approval.

4. Develops and maintains a comprehensive, updated and integrated set of system documentation and requirements specifications, software libraries, and validation tests of systems changes against user requirements and performance criteria, and certifies that changes are in conformance with specifications for assigned areas of responsibility.

5. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for title II initial claims and post-entitlement systems and Medicare systems. Prepares and performs service impact assessments, and software development plans for title II initial claims and post-entitlement systems and Medicare systems.

6. Evaluates legislative proposals, regulations, and policy changes affecting the title II initial claims and post-entitlement systems processes, and title XVIII Medicare systems processes. Reports on the impact to those processes as well as on short-term and long-range plans.

7. Intercedes on behalf of users in resolving system discrepancies and errors relating to the existing title II initial claims and post-entitlement process, or Medicare systems processes, with representatives of other Office of Systems components.

8. Coordinates user requirements and software delivery with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. The Division of Title II Processing (S4WE).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of title II (Retirement and Survivors) programmatic processes for such areas as earnings eligibility/entitlement and pay/computations.

2. Provides the software to process the annual benefit rate increase (BRI) for all title II beneficiaries, the automated earning reappraisal operations (AERO) and the earnings enforcement operations.

3. Provides certified earnings records for the field offices and outside agencies.

4. Performs requirement analyses, defining SSA-approved user needs and requirements for automated data processing services for title II initial claims and post-entitlement systems and Medicare systems. Prepares and performs service impact assessments, and software development plans for title II initial claims and post-entitlement systems and Medicare systems.

H. The Division of Title II Control & Queries (S4WG).

1. Designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of RSDI processing including batch transaction processing, PSC Action Control and data exchange for other SSA and non-SSA systems.

2. Designs software to edit incoming new records and transactions; control in-process transactions including PSC Action Control and OHA Case Control.

3. Develops queries and extracts software to retrieve and display transactions and Master Beneficiary Record-related data both in on-line and off-line environments.

4. Develops software to suspend benefits and produce alerts and notices for prisoners and pay bounties to prisons.

5. Develops software to update and maintain a variety of records which provide management, statistical and actuarial study data including epidemiological information.

Dated: May 21, 2002.

Jo Anne B. Barnhart,

Commissioner.

[FR Doc. 02–13412 Filed 5–29–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During March 25, through May 17, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–12023.
Date Filed: April 2, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0556 dated 26 March 2002
Mail Vote 213—Resolution 010L
TC3 between Japan, Korea and South East Asia Special Passenger
Amending Resolution between Korea and China (excluding Hong Kong SAR and Macau SAR) r1–r5
Intended effective date: 15 April 2002.

Docket Number: OST–2002–12035.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 NMS–AFR 0133 dated 8 March 2002
North Atlantic-Africa Resolutions r1-r22
Minutes: PTC12 NMS–AFR 0138 dated 2 April 2002
Tables: PTC12 NMS–AFR Fares 0069 dated 8 March 2002
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12036.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 NMS–AFR 0132 dated 5 March 2002 (Mail Vote 212)
Mid Atlantic-Africa Resolutions r1–r11

PTC12 NMS–AFR 0139 dated 2 April 2002 adopting Mail Vote 212
PTC12 NMS–AFR 0134 dated 8 March 2002
South Atlantic-Africa Resolution r12–r26
Minutes: PTC12 NMS–AFR 0138 dated 2 April 2002 filed with TC12 North Atlantic-Africa agreement
Tables: PTC12 NMS–AFR Fares 0070 dated 8 March 2002
PTC12 NMS–AFR Fares 0071 dated 2 April 2002
Intended effective date: 1 May 2001.

Docket Number: OST–2002–12037.
Date Filed: April 3, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0557 dated 2 April 2002
Mail Vote 214—Resolution 010m
TC3 between Japan, Korea and South East Asia
Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macau SAR) and Japan r1–r9
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12058.
Date Filed: April 4, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR–ME 0136 dated 5 April 2002
Mail Vote 216–Resolution 010o
TC2 Europe-Middle East Special Passenger Amending Resolution
From Cyprus to Lebanon
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12109.
Date Filed: April 15, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0560 dated 16 April 2002
Mail Vote 215—Resolution 010n
TC3 Special Passenger Amending Resolution Between Chongking and Bangkok r1–r5
Intended effective date: 25 April 2002.

Docket Number: OST–2002–12116.
Date Filed: April 16, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0916 dated 16 April 2002
Mail Vote 219—Resolution 010r
TC1, TC12 South Atlantic-Europe, TC31 South Pacific
Special Passenger Amending Resolution
Childrens fares from Brazil
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12130.
Date Filed: April 16, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 AFR–TC3 0165 dated 16 April 2002
Mail Vote 218—Resolution 010q
TC23 Africa–TC3 Special Passenger Amending Resolution from Uganda
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12182.
Date Filed: April 24, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 220—Resolution 010s
Special Passenger Amending Resolution from Spain
PTC12 MEX–EUR 0052 dated 26 April 2002
PTC12 MATL–EUR 0065 dated 26 April 2002
PTC12 SATL–EUR 0091 dated 26 April 2002
Intended effective date: 1 May 2002.

Docket Number: OST–2002–12256.
Date Filed: May 6, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC3 0567 dated 7 May 2002
Mail Vote 217—Resolution 010p
TC3 between Japan, Korea and South East Asia Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macau SAR) and Korea r1–r4
Intended effective date: 26 May 2002.

Docket Number: OST–2002–12257.
Date Filed: May 6, 2002.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR 0462 dated 30 April 2002 r1–r4
PTC2 EUR 0463 dated 3 May 2002 r5–r20
PTC2 EUR 0464 dated 3 May 2002 r21–r–23
PTC2 EUR 0465 dated 3 May 2002 r24
PTC2 EUR 0466 dated 3 May 2002 r25
PTC2 EUR 0467 dated 3 May 2002 r26–r27
TC2 Within Europe Expedited Resolutions
Minutes: PTC2 EUR 0468 dated 3 May 2002
Tables: No Tables
Intended effective dates: 1 June, 15 June, 1 July, 1 September, 1 October, 1 November 2002.

Docket Number: OST–2002–12312.
Date Filed: May 13, 2002.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 222—Resolution 010u
IATA telexes TW975 of 24 April 2002, TW977 of 29 April 2002, TW980 dated 8 May 2002
TC2, TC12, TC23/123 Special Passenger Amending Resolution from Libya
Intended effective date: 15 May 2002.

Docket Number: OST–2002–12335.
Date Filed: May 15, 2002.
Parties: Members of the International Air Transport Association.
Subject:

PTC123 0185 dated 17 May 2002
Mail Vote 223—Resolution 010v
TC123 North/Mid/South Atlantic
Special Passenger Amending
Resolution from Korea (Rep.of)
Intended effective date: 1 June 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–13551 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) filed With the Department between March 25, and May 17, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Applications filed during week ending: March 29, 2002.

Docket Number: OST–2002–11966.
Date Filed: March 27, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 17, 2002.

Description: Application of Triair (Bermuda) Limited, pursuant to 49 U.S.C. 41301 and Subpart B, requesting a foreign air carrier permit to conduct commercial operations in foreign air transportation between the United States, United Kingdom and Ireland.

Applications filed during week ending: April 12, 2002.

Docket Number: OST–2002–12080.
Date Filed: April 9, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 30, 2002.

Description: Application of China Cargo Airlines Ltd., pursuant to 49 U.S.C. 41302, 14 CFR §211.20 and Subpart B, requesting an initial foreign air carrier permit to engage in foreign air transportation of property and mail between Beijing and Shanghai, People's Republic of China and Anchorage, Los Angeles, San Francisco, Seattle, Chicago (O'Hare) and New York (JFK).

Applications filed during week ending: April 19, 2002.

Docket Number: OST–1999–5062.
Date Filed: April 15, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 6, 2002.

Description: Motion of Daystar Airways, Ltd. d/b/a Nevis Express, to amend its certificate of public convenience and necessity for Route 786, to include the points Dominican Republic, Antigua, Anguilla, Barbados and the Netherlands Antilles.

Docket Number: OST–1999–6425.
Date Filed: April 16, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 2002.

Description: Motion of Polar Air Cargo, Inc. for leave to file; and Supplement No. 1 to its application to expand its certificate of public convenience and necessity for Route 651, authorizing Polar to offer scheduled foreign air transportation of property and mail to the countries detailed herein.

Docket Number: OST–2002–12135.
Date Filed: April 16, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 2002.

Description: Application of Van Gaever & Co. N.V. d/b/a VG Airlines, pursuant to 49 U.S.C. 41301, § 211.20 and Subpart B, requesting an initial foreign air carrier permit to provide foreign air transportation of persons, property, and mail between Belgium and the United States.

Docket Number: OST–2002–12145.
Date Filed: April 18, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 2002.

Description: Application of BNJ Charter Company LLC, pursuant to 49 U.S.C. 41102 and Subpart B, requesting a certificate of public convenience and necessity to provide foreign charter transportation of persons, property, and mail.

Docket Number: OST–2002–12147.
Date Filed: April 18, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 2002.

Description: Application of BNJ Charter Company LLC, pursuant to 49 U.S.C. 41102 and Subpart B, requesting a certificate of public convenience and necessity to provide interstate charter air transportation of persons, property, and mail.

Applications filed during week ending: April 26, 2002.

Docket Number: OST–2002–12158.
Date Filed: April 22, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 13, 2002.

Description: Application of European Aviation Air Charter Limited, pursuant to 49 U.S.C. 41305, Part 211 and Subpart B, requesting a foreign air carrier permit authorizing charter air transportation of persons, property, and mail between a point or points in the United Kingdom and a point or points in the United States, and also authorizing applicant to engage in other charter trips in foreign air transportation subject to the terms, condition, and limitations of the Department's regulations governing charters.

Applications filed during week ending: May 10, 2002.

Docket Number: OST–1996–1131.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.

Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and 10, which authorizes United to engage in scheduled foreign air transportation of persons, property, and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1996–1248.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.

Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and 10, which authorizes United to engage in scheduled foreign air transporation of persons, property, and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1996–1530.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.

Description: Application of Federal Express Corporation, pursuant to 49 U.S.C. 41102 and Subpart B, requesting renewal of its experimental certificate of public convenience and necessity for Route 638, to provide scheduled foreign air transportation of property and mail between points in the United States, on

the one hand, and points in China, on the other hand, via intermediate points, and beyond to any points outside of China.

Docket Number: OST–1996–1873.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of United Airlines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR part 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 130, segments 1, 4, 6, 7, 9, and, 10 which authorizes United to engage in scheduled foreign air transporation of persons, property and mail between various points in the United States and Japan, the Philipines and Vietnam.

Docket Number: OST–1997–2046.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of United Air Lines, Inc., pursuant to 49 U.S.C. 41101, 14 CFR parts 201 and 302, and subpart B, requesting renewal of its certificate of public convenience and necessity for Route 632, segments 1 and 6, which authorizes United to engage in scheduled foreign air tranportation of persons, property, and mail between various named points in the United States and Sao Paulo, Rio de Janeiro, Brasilia and Belem, Brazil; Brranquilla, Colombia; and Buenos Aires, Argentina.

Docket Number: OST–2002–12274.
Date Filed: May 7, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 28, 2002.
Description: Application of Twinjet Aircraft Sales Limited, d/b/a Twinjet Aircraft, pursuant to 49 U.S.C. 41302, 14 CFR part 211, and subpart B, requesting a foreign air carrier permit to engage in ad hoc charter foreign air transportation of passengers (and their accompanying baggage) and cargo between: (1) Any point or points in the United Kingdom and any points in the United States; (2) between any point or points in the United States and any point or points in a third country or countries; and, (3) on any other charter flights authorized pursuant to Part 212.

Docket Number: OST–1997–2558.
Date Filed: May, 8, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. 41002 and subpart B, requesting renewal of its certificate authority for Route 171, segments 3, 4, 5, 6 and 12.

Docket Number: OST–2002–12295.
Date Filed: May, 8, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 29, 2002.
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. 41002 and subpart B, requesting renewal of its certificate authority for Route 171, segments 3, 4, 5, 6 and 12.

Dorothy Y. Beard,
Federal Register Liaison.

[FR Doc. 02–13552 Filed 5–29–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–12376]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.
ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC advises the Coast Guard on matters related to regulations and policies on the pilotage of vessels on the Great Lakes.

DATES: Application forms should reach us on or before July 1, 2002.

ADDRESSES: You may request an application form by writing to Commandant (G-MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–6164; by faxing 202–267–4700; or by e-mailing Jshort@comdt.uscg.mil. Send your completed application to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of GLPAC, at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee (GLPAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary of Transportation, via the Commandant of the Coast Guard, on the rules and regulations that govern the registration of pilots, the operating requirements for U.S. registered pilots, pilot training policies, and the policies and regulations that establish rates charges and conditions for pilotage services.

GLPAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Subcommittees or working groups may be designated to consider specific problems and will meet as required.

We will consider applications for two positions that expired on April 30, 2002. The two positions we are seeking to fill represent the interests of Great Lakes' ports, and the interests of shippers whose cargoes are transported through Great Lakes' ports. To be eligible, you must represent the interests of one of these two industry groups and have particular expertise, knowledge, and experience regarding the regulations and policies on the pilotage of vessels on the Great Lakes, and at least 5 years of practical experience in maritime operations.

Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem will be provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: May 23, 2002.

Jeffrey P. High,
Acting, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–13514 Filed 5–29–02; 8:45 am]
BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–11714]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.
ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 30 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m.,

e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

Thirty individuals petitioned FMCSA for an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Ronald M. Aure, Steven S. Bennett, Joe W. Brewer, Trixie L. Brown, James D. Coates, Michael D. DeBerry, James W. Ellis, IV, John E. Engstad, Jose D. Espino, Dan M. Francis, David W. Grooms, Joe H. Hanniford, David A. Inman, Harry L. Jones, Teddie W. King, Richard B. Leonard, Robert P. Martinez, Michael L. McNeish, David E. Miller, Bobby G. Minton, Lawrence C. Moody, Stanley W. Nunn, William R. Proffitt, Charles L. Schnell, Charles L. Shirey, James R. Spencer, Sr., David E. Steinke, Kevin R. Stoner, Carl J. Suggs, and James A. Torgerson.

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 30 petitions on their merits and made a determination to grant the exemptions to all of them. On April 2, 2002, the agency published notice of its receipt of applications from these 30 individuals, and requested comments from the public (67 FR 15662). The comment period closed on May 2, 2002. One comment was received, and its contents were carefully considered by FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supports FMCSA's (and previously FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 30 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular scar, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but seven of the applicants were either born with their vision impairments or have had them since childhood. The seven individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 34 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctor's opinions are supported by the applicant possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 30 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 43 years. In the past 3 years, the 30 drivers had 13 convictions for traffic violations among them. Seven of these convictions were for Speeding, and four were for "Failure to Obey Traffic Sign." The other convictions consisted of: "Traveling in the Car Pool Lane"; and "Drive on Wrong Side of Undivided Street/Road." Two drivers were involved in an accident in a CMV, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an April 2, 2002, notice (67 FR 15662). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported by the information published at 67 FR 15662.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicant's vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because

data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (*See* Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 30 applicants receiving an exemption, we note that cumulatively the applicants have had only 2 accidents and 13 traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicant's ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicant's intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 30 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 30 exemption applications in accordance with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), FMCSA exempts Ronald M. Aure, Steven S. Bennett, Joe W. Brewer, Trixie L. Brown, James D. Coates, Michael D. DeBerry, James W. Ellis, IV, John E. Engstad, Jose D. Espino, Dan M. Francis, David W. Grooms, Joe H. Hanniford, David A. Inman, Harry L. Jones, Teddie W. King, Richard B. Leonard, Robert P. Martinez, Michael L. McNeish, David E. Miller, Bobby G. Minton, Lawrence C. Moody, Stanley W. Nunn, William R. Proffitt, Charles L. Schnell, Charles L. Shirey, James R. Spencer, Sr., David E. Steinke, Kevin R. Stoner, Carl J. Suggs, and James A. Torgerson from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's

or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 24, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–13553 Filed 5–29–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34203]

Tri-City Railroad Company, L.L.C.—Lease and Operation Exemption—Hanford Site Rail System in Richland, WA

Tri-City Railroad Company, L.L.C. (Tri-City), a Class III rail carrier, has filed a verified notice of exemption [1] under 49 CFR 1150.41 *et seq.* to lease and operate 37 miles of rail line, including connecting spur tracks, known as the Tri-City Railroad "Northern Connection," extending from milepost 28.3 at Horn Rapids Road, to milepost 0 at Susie Junction at the northwest end of the rail line within the U.S. Department of Energy's Hanford Site Rail System, in Richland, WA.

Tri-City certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The transaction was scheduled to be consummated on or after May 15, 2002.

[1] The verified notice was filed on April 30, 2002, and was amended on May 10, 2002.

If the notice 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. 34203, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Randolph Peterson, 2355 Stevens Drive, P.O. Box 1700, Richland, WA 99352.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13385 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34196]

Illinois Central Railroad Company—Trackage Rights Exemption–The City of New Orleans, LA

The City of New Orleans, LA (NO), pursuant to a written trackage rights agreement among Illinois Central Railroad Company (IC or Applicant), NO, and the New Orleans Public Belt Railroad Commission for the City of New Orleans, has agreed to grant nonexclusive overhead trackage rights to IC over NO's rail line-from a connection between NO's railroad and IC near Southport Junction interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between NO's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Backup Main; and from North Wye Junction to South Wye Junction via the Wye Track-all in the City of New Orleans a distance of approximately 5.3 miles.

Applicant confirmed that the consummation of the transaction was anticipated to be on May 17, 2002, the effective date of the exemption (7 days after the exemption was filed).[1]

The purpose of the trackage rights is to grant IC the right to operate its freight trains, locomotives, cabooses and rail cars (including business cars) and roadway equipment over the line, and to grant IC the right to operate business cars into the Union Passenger Terminal in the City of New Orleans. The trackage rights agreement will replace a 1947 agreement granting operations in and around that terminal.

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—dash;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. 34196, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Michael J. Barron, Jr., 455 North Cityfront Plaza Drive, Chicago, IL 60611–5317.

Board decisions and notices are available on our Web site at "*www.stb.dot.gov.*"

Decided: May 22, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13506 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] Applicant initially indicated a proposed consummation date of May 14, 2002, but because applicant did not include the required filing fee, the applicable filing date was May 10, 2002, when the Board received the correct filing fee. Consummation could may not occur prior to May 17, 2002 (7 days after the May 10, 2002 filing date of the verified notice). IC's representative subsequently confirmed that consummation could not occur before May 17, 2002.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34202]

Tri-City Railroad Company, L.L.C.—Lease and Operation Exemption—Port of Olympia Rail System in Olympia, WA

Tri-City Railroad Company, L.L.C. (Tri-City), a Class III rail carrier, has filed a verified notice of exemption [1] under 49 CFR 1150.41 *et seq.* to lease and operate a line of railroad owned by the Port of Olympia between milepost 0 at the ship pier and milepost 2 at the intersection of Franklin Street and A Avenue, a total distance of 2 miles in Olympia, WA.

Tri-City certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The transaction was scheduled to be consummated on or after May 15, 2002.

If the verified notice 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. 34202, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Randolph Peterson, 2355 Stevens Drive, Post Office 1700, Richland, WA 99352.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV*."

Decided: May 21, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13386 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The verified notice was filed on April 30, 2002, and amended on May 10, 2002.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 10X); STB Docket No. AB–55 (Sub–No. 616X)]

New York Central Lines, LLC—Abandonment Exemption—in Worcester County, MA; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Worcester County, MA

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 Subpart F-*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately 4.2 miles of railroad between milepost QBU–0.0 and milepost QBU–4.2 from Fitchburg to Leominster, in Worcester County, MA. The line traverses United States Postal Service Zip Codes 01420 and 01453.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on June 29, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 10, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 19, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 4, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NYC's filing of a notice of consummation by May 30, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV*."

Decided: May 23, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–13507 Filed 5–29–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which, as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Specially Designated Narcotics Traffickers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control is publishing the names of additional persons designated as specially designated narcotics traffickers and whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act and 31 CFR part 598.

DATES: The designations of additional persons whose property and interests in property have been blocked were effective on January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: *fedbbs.access.gpo.gov*. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On January 31, 2002, the Treasury Department's Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, designated fifteen individuals and twelve entities as significant foreign narcotics traffickers pursuant to subsections 805(b)(2) and (3) of the Foreign Narcotics Kingpin Designation Act, 21 U.S.C. 1904(b)(2) & (3), and § 598.314 of the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598. On March 7, 2002, OFAC, acting pursuant to § 501.807 of 31 CFR chapter V, rescinded the designation of one entity, DHL Worldwide Express, St. Kitts & Nevis, on the basis of changed circumstances.

OFAC's designations of these additional individuals and entities, as listed below, were effective on January 31, 2002. All property and interests in property owned or controlled by the designated individuals and entities, including but not limited to all accounts, that are or come within the United States or that are or come within the possession or control of U.S. persons, including their overseas branches, are blocked, and all transactions or dealings by U.S. persons or within the United States in property or interests in property of any of those individuals or entities are prohibited, unless authorized by OFAC or exempted by statute.

The list of additional designations follows:

I. INDIVIDUALS

AGUILAR AMAO, Miguel,
Avenida Del Sol 4551, Fraccionamiento La Escondida, Tijuana, Baja California, Mexico;
Avenida Del Sol 4551–2, Fraccionamiento La Escondida 22440, Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 29 Sep 1953; POB Santa Agueda, Baja California Sur, Mexico;
Credencial electoral No. 101924629544 (Mexico);
R.F.C. # AUAM–530929 (Mexico)

AGUIRRE GALINDO, Manuel,
c/o COMPLEJO TURISTICO OASIS, S.A. de C.V. Rosarito, Baja California Norte, Mexico;
DOB 2 Nov 1950;
R.F.C. # AUGM–501102–PM3 (Mexico)

ALBA CERDA, Salvador,
Avenida P acifico No. 2834, Seccion Costa de Oro Fraccionamiento Playas de Tijuana 22250, Tijuana, Baja California, Mexico;
Avenida Pacifico No. 2408, Seccion Costa de Oro Fraccionamiento Playas de Tijuana 22250, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 25 Dec 1947; POB Patzcuaro, Michoacan, Mexico;
Credencial electoral No. 125324910951 (Mexico)(individual)

ARELLANO FELIX, Enedina
(a.k.a. ARELLANO FELIX DE TOLEDO, Enedina), c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
DOB 12 Apr 1961

FREGOSO AMEZQUITA, Maria Antonieta,
Calle Jerez 538, Fraccionamiento Chapultepec, Tijuana, Baja California, Mexico;
Calle Jerez 552–B, Fraccionamiento Chapultepec, CP 22420, Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
c/o ACCESOS ELECTRONICOS, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o OPERADORA VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 29 Oct 1952; POB Guadalajara, Jalisco, Mexico; Driver's License No. 180839 (Mexico);
Credencial electoral No. 088455751391 (Mexico);
R.F.C. # AEL–980417-S51 (Mexico)

GALINDO LEYVA, Esperanza,
c/o COMPLEJO TURISTICO OASIS, S.A. de C.V., Playas de Rosarito, Baja California Norte, Mexico;
DOB 16 Aug 1920;
R.F.C. # GALE–200816–6IA (Mexico)

GIL GARCIA, Jose Alejandro,
Avenida Ejercito Trigarante 7865–J, Infonavit Cuchanilla 22680, Tijuana, Baja California, Mexico;
Avenida Altabrisa 15401, Fraccionamiento Altabrisa, Otay Universidad, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 22 Jan 1952; POB Culiacan, Sinaloa, Mexico;
Credencial electoral No. 103624690069 (Mexico);
R.F.C. # GIGA–520122

(Mexico)(individual)
HERNANDEZ PULIDO, Maria Elda,
Calle Juan de Dios Peza 1015, Colonia Mexico 22150, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 18 Aug 1971; POB Baja California Norte, Mexico
MATTHEW, Karen,
c/o FREIGHT MOVERS INTERNATIONAL, Basseterre, St. Kitts & Nevis, West Indies;
DOB 27 Jan 1964; POB St. Vincent & Grenadines
MIJARES TRANCOSO, Gilberto,
Calle Luis Echeverria 6329-B, Infonavit Presidentes, Tijuana, Baja California, Mexico; P.O. Box 43440, San Ysidro, California 92173, U.S.A.;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
DOB 4 Feb 1951; POB Vicente Guerrero, Durango, Mexico;
Driver's License No. 210082884 (Mexico); Passport No. ASDI1418 (Mexico)
MORENO MEDINA, Luis Ignacio,
Calle Guadalupe Victoria 6, Colonia Lomas Hipodromo, Tijuana, Baja California, Mexico;
Calle Guadalupe Victoria 9, Colonia Lomas Hipodromo, Tijuana, Baja California, Mexico;
Avenida David Alfaro Siqueiros 2789–102, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida de las Americas 3048, Fraccionamiento El Paraiso, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
c/o ACCESOS ELECTRONICOS, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o OPERADORA VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o VALPARK, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o GEX EXPLORE, S. de R.L. de C.V., Tijuana, Baja California, Mexico;
DOB 26 May 1953; POB Distrito Federal, Mexico;
Passport No. 96020025125 (Mexico), Passport No. ATIJ07154 (Mexico);
R.F.C. # MOML–530526–ED4 (Mexico)
OROPEZA MEDRANO, Francisco Javier,
Avenida Los Reyes 18108–D, Fraccionamiento Villa de Baja California 22684, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
DOB 23 Feb 1968; POB Coahuila, Mexico
OROZCO CARDENAS, Adrian,
Privada Colonia del Valle 7001, Fraccionamiento Residencial Agua Caliente, Tijuana, Baja California, Mexico;
Calle Circunvalacion Sur 273–5, Colonia Las Fuentes 45070, Zapopan, Jalisco, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADP, S.C., Tijuana, Baja California, Mexico;
c/o FORPRES, S.C., Tijuana, Baja California, Mexico;
DOB 14 Sept 1953, POB Distrito Federal, Mexico
RAMIREZ AGUIRRE, Sergio Humberto,
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 22 Nov 1951
TOLEDO CARREJO, Luis Raul,
Calle De Los Olivos 10549, Colonia Jardines de Chapultepec, Tijuana, Baja California, Mexico;
Ave. Xavier Villaurrutia 9950, Colonia Zona Urbana Rio, Tijuana, Baja California, Mexico;
Ave. Queretaro 2984, Colonia Francisco I. Madero, Tijuana, Baja California, Mexico;
c/o FARMACIA VIDA SUPREMA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o ADMINISTRADORA DE IMUEBLES VIDA, S.A. DE C.V., Tijuana, Baja California, Mexico;
c/o DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V., Tijuana, Baja California, Mexico;
DOB 30 Jan 1959; POB Guadalajara, Jalisco, Mexico

II. ENTITIES

ACCESOS ELECTRONICOS, S.A. de C.V.,
Blvd. Cuauhtemoc 1711, Oficina 305, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida Cuauhtemoc 1209, CP 22290, Colonia Zona Rio, Tijuana, Baja California, Mexico;
David Alfaro 25, CP 22320, Tijuana, Baja California, Mexico
ADMINISTRADORA DE INMUEBLES VIDA, S.A. de C.V.,
Blvd. Agua Caliente 1381, Colonia Revolucion, Tijuana, Baja California, Mexico
ADP, S.C.,
Tijuana, Baja California, Mexico
COMPLEJO TURISTICO OASIS, S.A. de C.V.
(a.k.a. OASIS BEACH RESORT & CONVENTION CENTER), Km 25 Carr. Tijuana-Ensenada, Colonia Leyes de Reforma,
CP 22710, Playas de Rosarito, Baja California Norte, Mexico;
R.F.C. # CTO–880909–R38 (Mexico)
DISTRIBUIDORA IMPERIAL DE BAJA CALIFORNIA, S.A. de C.V.
(a.k.a. DISTRIBUIDORA IMPERIAL, a.k.a. DIBC), Blvd. Agua Caliente 1381, Colonia Revolucion, Tijuana, Baja California, Mexico;
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Heroes de Nacozari 3213 Colonia Maya, Culiacan, Sinaloa, Mexico;
Lerdo de Tejada 1879 Sector Juarez, Guadalajara, Jalisco, Mexico;
Ramon Morales No. 732 Colonia El Mirador, Guadalajara, Jalisco, Mexico;
Rio Balsas 1579 Los Nogales, Ciudad Juarez, Chihuahua, Mexico;
Luz Savinon 718–C Colonia del Valle, Mexico City, Distrito Federal, Mexico;
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FARMACIA VIDA SUPREMA, S.A. de C.V.
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Avenida Constitucion No. 1300,Tijuana, Baja California, Mexico;
Avenida Negrete No. 1200, Tijuana, Baja California, Mexico;
Avenida Segunda No. 1702, Tijuana, Baja California, Mexico;
Avenida 16 de Septiembre No. 1100,

Tijuana, Baja California, Mexico;
Calle 4ta. 1339 y "G" Tijuana, Baja California, Mexico;
Blvd. D. Ordaz No. 700–316, Tijuana, Baja California, Mexico;
Avenida Benito Juarez No. 16–2, Rosarito, Baja California, Mexico;
Avenida Las Americas, Int. Casa Ley, Tijuana, Baja California;
Avenida Constitucion y 10ma., Tijuana, Baja California, Mexico;
Avenida Constitucion 823, Tijuana, Baja California, Mexico;
Calle Benito Juarez 1941, Tijuana, Baja California, Mexico;
Calle 4ta. Y Niños Heroes 1802, Tijuana, Baja California, Mexico;
Calle Benito Juarez 1890–A, Tijuana, Baja California, Mexico;
Blvd. Benito Juarez 20000, Rosarito, Baja California, Mexico;
Blvd. Diaz Ordaz 915, La Mesa, Tijuana, Baja California, Mexico;
Blvd. Fundadores 8417, Fraccionamiento El Rubi, Tijuana, Baja California, Mexico;
Avenida Tecnologico 15300–308, Centro Comercial Otay Universidad Tijuana, Baja California, Mexico;
Avenida Revolucion 651, Zona Centro, Tijuana, Baja California, Mexico;
Blvd. Sanchez Taboada 4002, Zona Rio, Tijuana, Baja California, Mexico;
Paseo Estrella del Mar 1075–B, Placita Coronado, Playas de Tijuana, Baja California, Mexico;
Avenida Jose Lopez Portillo 131–B, Modulos Otay Tijuana, Baja California, Mexico;
Avenida Braulio Maldonado No. 1409–C, Local 3, Fraccionamiento Soler, Tijuana, Baja California, Mexico;
Toribio Ortega No. 6072–1 Colonia Fco. Villa, Tijuana, Baja California, Mexico;
Blvd. Diaz Ordaz No. 1159–101, Tijuana, Baja California, Mexico;
Plaza del Norte, M. Matamoros No. 10402, Frac. M. Matamoros, Tijuana, Baja California, Mexico;
Calle Carrillo Puerto (3ra.) No. 1434–131, Tijuana, Baja California, Mexico;
Blvd. Ejido Matamoros No. 402–1 Lomas Granjas la Española, Tijuana, Baja California, Mexico;
Calz. Cucapah 20665–1B Colonia Buenos Aires Norte, Tijuana, Baja California, Mexico;
R.F.C. # FVS–870610–LX3 (Mexico)
FORPRES, S.C.,
Tijuana, Baja California, Mexico
FREIGHT MOVERS INTERNATIONAL,
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GEX EXPLORE S. de R.L. de C.V.,
Avenida David Alfaro Siqueiros 2789–102, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Avenida David Alfaro 25, CP 22320, Tijuana, Baja California, Mexico;
Calle Nezahualcoyotyl No. 1660, CP 22320, Colonia Zona Rio, Tijuana, Baja California, Mexico
OPERADORA VALPARK, S.A. de C.V.,
Avenida Cuauhtemoc 1711, Ofc. 305A, Zona Rio, Tijuana, Baja California, Mexico;
Calle Netzahuacoyotl y Paseo Centenario, Tijuana, Baja California, Mexico
VALPARK, S.A. de C.V.,
Avenida David Alfaro Siquieiros 2789, Ofc. 201A, Colonia Zona Rio, Tijuana, Baja California, Mexico;
Paseo de los Heroes y Sanchez Taboada, CP 22320, Tijuana, Baja California, Mexico

Dated: May 8, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 9, 2002.

Kenneth E. Lawson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 02–13426 Filed 5–24–02; 2:33 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–52–88]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–52–88 (TD 8455), Election to Expense Certain Depreciable Business Assets. (§§ 1.179–2, 1.179–3).

DATES: Written comments should be received on or before July 29, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the internet (*Allan.M.Hopkins@irs.gov*) Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election to Expense Certain Depreciable Business Assets.

OMB Number: 1545–1201.

Regulation Project Number: PS–52–88 Final.

Abstract: The regulations provide rules on the election described in Internal Revenue Code section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; and the proper order for deducting the carryover of disallowed deduction. The recordkeeping and reporting requirements are necessary to monitor compliance with the section 179 rules.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, farms, and business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 45 min..

Estimated Total Annual Burden Hours: 15,000 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–13580 Filed 5–29–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed extension, without change, of a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the Agencies are soliciting comment concerning the proposed extension of OMB approval of the information collections contained in their respective Community Reinvestment Act (CRA) regulations.

DATES: Comments should be submitted by July 29, 2002. .

ADDRESSES: Comments should be directed to the Agencies and the OMB Desk Officer for the Agencies as follows:

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0160, Washington, DC 20219. Due to temporary disruptions in the OCC's mail service, commenters are encouraged to submit comments by fax or electronic mail. Comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy comments at the OCC's Public Information Room. You can make an appointment to inspect the comments by calling (202) 874–5043.

Board: Written comments may be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by electronic mail to *regs.comments@federalreserve.gov*, or faxing them to the Office of the Secretary at (202) 452–3819 or (202) 452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in Room M–P–500 between 9 a.m. and 5 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Tamara Manly, Management Analyst, Office of the Executive Secretary, Room F–4060, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to "Community Reinvestment Act Regulation, 3064–0092." Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [Fax number (202) 898–3838; Internet address: *comments@fdic.gov*]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC between 9 a.m. and 4:30 p.m. on business days.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0012, Fax number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

OMB Desk Officer for the Agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: You may request additional information from:

OCC: Jessie B. Dunaway, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Tamara Manly, Management Analyst, (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Title:

OCC: Community Reinvestment Act Regulation—12 CFR 25.

Board: Recordkeeping, Reporting, and Disclosure Requirements in Connection with Regulation BB (Community Reinvestment Act).

FDIC: Community Reinvestment Act

OTS: Community Reinvestment Act

OMB Control Number:

OCC: 1557–0160

Board: 7100–0197

FDIC: 3064–0092

OTS: 1550–0012

Type of Review: Extension, without change, of a currently approved collection.

Form Number: None.

Abstract: This submission covers an extension of the Agencies' currently

approved information collections in their CRA regulations (12 CFR part 25 (OCC), 12 CFR part 228 (Board), 12 CFR part 345 (FDIC), and 12 CFR part 563e (OTS)). The submission involves no change to the regulations or to the information collections.

The Agencies need the information collected to fulfill their obligations under the CRA (12 U.S.C. 2901 *et seq.*) to evaluate and assign ratings to the performance of institutions, in connection with helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. The Agencies use the information in the examination process and in evaluating applications for mergers, branches, and certain other corporate activities. Financial institutions maintain and provide the information to the Agencies.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents:

OCC: 2,141
Board: 976
FDIC: 5,484
OTS: 1,020

Estimated Annual Responses:

OCC: 2,141
Board: 976
FDIC: 5,484
OTS: 1,020

Estimated Annual Burden Hours:

OCC: 322,307
Board: 159,160
FDIC: 607,603
OTS: 158,221

Frequency of Response: Annually.

Comments

Comments submitted in response to this notice will be summarized in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 6, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 22, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 3rd day of May, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: May 6, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

[FR Doc. 02–13413 Filed 5–29–02; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Corrections

Federal Register
Vol. 67, No. 104
Thursday, May 30, 2002

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 VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AK66

Special Monthly Compensation for Women Veterans Who Lose a Breast as a Result of a Service-Connected Disability

Correction

In proposed rule document 01–18207 beginning on page 37940 in the issue of Friday, July 20, 2001, make the following correction:

§ 4.116 [Corrected]

On page 37941, in the third column, the table is being reprinted in part to read as follows:

	Rating
Both or one	0

NOTE: For VA purposes:

(1) *Radical mastectomy* means removal of the entire breast, underlying pectoral muscles, and regional lymph nodes up to the coracoclavicular ligament..

(2) *Modified radical mastectomy* means removal of the entire breast and axillary lymph nodes (in continuity with the breast). Pectoral muscles are left intact..

	Rating

(3) *Simple (or total) mastectomy* means removal of all of the breast tissue, nipple, and a small portion of the overlying skin, but lymph nodes and muscles are left intact..

(4) *Wide local excision* (including partial mastectomy, lumpectomy, tylectomy, segmentectomy, and quadrantectomy) means removal of a portion of the breast tissue..

* * * * *

[FR Doc. C1–18207 Filed 5–29–02; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
May 30, 2002

Part II

Department of Transportation

Coast Guard

33 CFR Parts 148, 149, and 150
Deepwater Ports; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 148, 149, and 150

[USCG–1998–3884]

RIN 2115–AF63

Deepwater Ports

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations governing deepwater ports. These regulations are over 25 years old and were written at a time when no deepwater ports existed on which to base regulations. This rulemaking is necessary to update the regulations with current technology and industry standards. It will also align them with certain regulations for other fixed offshore facilities.

DATES: Comments and related material must reach the Docket Management Facility on or before July 29, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 29, 2002.

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 1998–3884), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By 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.*

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

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.*

You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1181. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Commander Mark Prescott, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), Coast Guard, telephone 202–267–0225. 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–1998–3884), 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 and 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 that 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**.

Related Rulemaking

This notice of proposed rulemaking (NPRM) refers to sections in another Coast Guard NPRM. References in §§ 149.305, 149.405, 149.640, 149.690, 150.250, 150.505, 150.510, and 150.600 of the deepwater ports NPRM to sections in parts 142 and 143 refer to those sections as they appear in the NPRM entitled "Outer Continental Shelf Activities" published in the **Federal Register** on December 7, 1999, not as they appear in the current Code of Federal Regulations (CFR). A note is placed at the end of each paragraph that references a section in the Outer Continental Shelf (OCS) Activities NPRM. For example, paragraph (a) of § 149.305 in this document refers to §§ 143.810 through 143.885. The note following that paragraph indicates that the sections referred to are proposed in the December 7, 1999, issue of the **Federal Register**, volume 64, at pages 68476 through 68480. A copy of the OCS Activities NPRM (docket number USCG–1998–3868) is available in the **Federal Register** at volume 64, page 68416, December 7, 1999, or at *http://dms.dot.gov.*

The OCS Activities NPRM proposes to revise 33 CFR chapter I, subchapter N, which contains the requirements for units, other than deepwater ports, on the OCS. Because of similarities between deepwater ports and fixed OCS facilities, representatives within the deepwater port industry requested that the deepwater regulations be aligned, to the extent practicable, with the OCS regulations. Also, this alignment furthers a major goal of the 1996 Deepwater Ports Modernization Act (Public Law 104–324) concerning improving the competitiveness of deepwater ports by eliminating unduly burdensome, unnecessary, and duplicative regulations. See House of Representatives Report 104–692.

Should you have comments on provisions in the OCS Activities NPRM that are referenced in this Deepwater Ports NPRM and would like those comments considered under the deepwater ports rulemaking, please submit them to the Deepwater Ports docket (USCG–1998–3884) under **ADDRESSES.**

What Is the Regulatory History of This Rulemaking?

On August 29, 1997, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (62 FR 45775) for deepwater ports. The ANPRM sought answers to several questions, each of

which is discussed, along with responses, later in this preamble.

What Is the Background for This Rulemaking?

A deepwater port is a structure located beyond the territorial sea and off the coast of the United States that is used to receive, store, and distribute oil to refineries in the U.S. At present, the Louisiana Offshore Oil Port (LOOP) is the only licensed deepwater port.

The regulations for deepwater ports in 33 CFR chapter I, subchapter NN, (parts 148, 149, and 150) were written in 1975. At that time, there were no deepwater ports in the United States and, therefore, we had little experience in formulating regulations for them. From the experience gained in applying these regulations to LOOP and from the comments received in response to the advance notice of proposed rulemaking, we found that some of the regulations are overly burdensome or more extensive than those for fixed facilities on the OCS. The application process for a deepwater port license requires information no longer necessary in today's economy. Technology and industry standards have changed over the years, causing some regulations to become obsolete.

In 1996, Congress passed the Deepwater Port Modernization Act (Public Law 104–324, title V, sec. 501–508, October 19, 1996). This Act amended the Deepwater Port Act of 1974 (33 U.S.C. 1501–1524) for the following reasons:

(1) To update and improve the Deepwater Port Act of 1974.

(2) To assure that the regulations for deepwater ports are not more burdensome or stringent than necessary in comparison to the regulations of other modes for importing or transporting oil.

(3) To recognize that deepwater ports are generally subject to effective competition from alternate transportation modes and to eliminate unnecessary Federal regulatory oversight or involvement in the port's business and economic decisions.

(4) To promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or licensing provisions.

(5) To encourage the construction of additional deepwater ports and to improve the competitiveness of the existing deepwater port (LOOP).

What Are Our Objectives for This Rulemaking?

(1) *Update the regulations.* We propose updates to various sections of the regulations, such as the requirements for license applications, fire extinguishing systems, fire detection systems, and construction and design. Also, we use modern, plain-language techniques in drafting the proposal to better benefit the reader.

(2) *Exclude unnecessary regulations.* We have tried to limit the regulations in this proposal to only those that should be in regulations, that is, those that apply to all deepwater ports, and to exclude from the regulations all requirements applicable only to a specific port. Provisions peculiar to a specific port would be included in that port's license or operations manual. This is consistent with 33 U.S.C. 1503(e)(1) and House of Representatives Report 104–692, page 4, section 4(c).

(3) *Ensure that the regulations are consistent with those for similar structures.* We have tried to align, to the extent practicable, these proposed regulations with those proposed for fixed facilities on the OCS. (See the discussion in the "Related Rulemaking" section of this preamble.) Also, we have tried to align these regulations with those for facilities transferring oil or hazardous materials in bulk (33 CFR part 154). Certain aspects of operating a deepwater port are similar to those for facilities transferring oil or hazardous materials in bulk (OHMB facilities). For example, similarities exist in areas of cargo transfer operations, communications, and operations manuals.

(4) *Improve the competitiveness of the current deepwater port and encourage the construction of additional deepwater ports.* The Deepwater Port Modernization Act makes certain changes to the Deepwater Port Act to improve competitiveness, such as by clarifying the definition of "deepwater port" to include a broader range of activities. Working within the limits of these changes to the Act, we have tried to simplify the use of the regulations by clarifying and streamlining them. In developing these proposals, we also kept in mind the objective of promoting the use of deepwater ports by improving the regulatory framework and the procedure for applying for a license. We propose to eliminate unduly burdensome regulations. For example, we delete the need for Secretarial review of relatively routine, non-controversial matters.

We are particularly interested in your comments on how well we have achieved each of these objectives.

What Comments Were Received in Response to the 1997 Advance Notice of Proposed Rulemaking?

We received four letters in response to the questions raised in our 1997 Advance Notice of Proposed Rulemaking (ANPRM). You can view the letters on the Internet at *http://dms.dot.gov* under this rulemaking's docket number (USCG–1998–3884). The following is a list of the questions asked in the ANPRM and the responses to them. The citations used (e.g., § 150.123) refer to the regulations presently in effect in title 33 of the Code of Federal Regulations (CFR), not to those in this proposed rule.

(1) What provisions of the regulations should be moved from the regulations and placed in the license conditions?

One comment states that nothing should be moved from the regulations to the license.

One of our objectives in this rulemaking is to limit the regulations to requirements applicable to all deepwater ports. What you see in this proposal are only those requirements that we believe should be in regulations.

(2) What provisions of the regulations can be moved from the regulations and placed in the operations manual?

(a) One comment suggests that the requirements for weather monitoring (§ 150.123), oil transfers (§ 150.413), and stopping transfer operations (§ 150.419) be moved to the operations manual.

We agree and propose that these requirements be moved to the operations manual. This proposal is aligned with the requirements in 33 CFR part 154 for onshore facilities transferring oil or hazardous materials in bulk (OHMB facilities), where oil transfers and stopping oil transfers are dealt with in the operations manual.

(b) Several comments suggest that certain provisions in part 150, subparts B through F, be transferred to the operations manual. One comment suggests that §§ 150.123, 150.201 through 150.217, 150.305 through 150.311, 150.313(a), (b), and (c), 150.341, 150.342, 150.413, 150.415, 150.419, 150.423, 150.503, 150.519, 150.521, 150.523, 150.751, and 150.755 be moved to the manual. Another comment suggests moving the personnel requirements, the description of fire extinguishing equipment and their locations, and the vessel navigation requirements in part 150, subpart C, to the manual. Unfortunately, these comments do not adequately explain why these moves should be made.

We tried to include in the regulations only provisions that should apply to all deepwater ports. We do propose to transfer some of the sections suggested to the operations manual. In particular, we propose to move §§ 150.123, 150.305, 150.311, 150.313, 150.419, 150.519, 150.521, 150.523, and 150.755 to the operations manual. However, we believe that the remaining sections apply to all deepwater ports and, therefore, should stay in the regulations.

(3) What regulations are obsolete, unnecessary, redundant, or restrictive?

(a) One letter states that the regulations for deepwater ports, particularly those on the application for a license, are far more onerous and costly than those for other offshore facilities. The comments remark that the Coast Guard should delete information that was a concern in the 1970's but is no longer a concern today. The comments suggest that information on Petroleum Administration for Defense (PAD) Districts (See definition in proposed § 148.5.) in § 148.109(e) should be deleted. The comments also suggest that financial and technical information required in §§ 148.109(f), (k), and (p), 148.111, and 148.503 is unnecessary.

In the 1970's, the Government thought that deepwater ports would dominate the market. Therefore, the regulations required much information on affiliates, contractors, and PAD Districts. We propose to remove §§ 148.109(e)(6)(i) and (ii), (e)(7) through (e)(13), and (f) and 148.323(b)(6), as the comment suggests.

(b) One comment says that the requirements in §§ 149.313 and 149.315 for an oil transfer alarm were duplicative of the general alarm and public address requirements and that these issues should be addressed in the operations manual.

A separate oil transfer alarm is needed to immediately distinguish between an oil transfer emergency and a general emergency because of the environmental consequences involved. We have retained these provisions in the proposed regulations because they would be applicable to all deepwater ports.

(c) One comment states that § 149.403, concerning wastes being gathered in reservoirs, is inconsistent with industry practices where wastes are treated and expelled into the Gulf of Mexico.

We do not agree. The Minerals Management Service requires offshore facilities, in 30 CFR 250.300, to have a sump system that collects all oil drainages and contaminants not authorized for discharge into the ocean. This system is comparable to the requirement for a reservoir for a deepwater port. This requirement remains in the regulations.

(d) One comment suggests that §§ 150.203 through 150.217 be deleted and a single section entitled "Person in Charge" be added.

Unfortunately, we were not given a reason for this suggestion and cannot gather from the context why it was suggested.

(e) One comment recommends deleting § 150.713 on sabotage as unnecessary because of industry standards and other Federal and State laws.

Though sabotage is covered under other Federal laws, § 150.713 requires that sabotage be reported to the Coast Guard. Since these incidents must be reported to the Coast Guard, we retain the provision in this proposed rule, except for the requirement for written confirmation of sabotage. We propose to remove the requirement for written confirmation to lessen the reporting burden.

(f) One comment suggests that the notification of new construction at a deepwater port be given to the Coast Guard Captain of the Port (COTP), rather than to the District Commander, as required in § 150.117. Also, a comment suggested that the notification of issuance of the American Bureau of Shipping (ABS) Classification Certificate for a single point mooring (SPM) be given to the COTP, rather than to the Commandant, as required in § 150.119.

We agree with these comments. However, as the COTP is usually advised of construction occurring in his or her area of operation, we propose no change to § 150.117. In § 150.119, the COTP, rather than the Commandant, should be given written confirmation of the licensee's receipt of ABS certificates on SPM's, so we have proposed this change.

(g) Two comments state that § 149.206, concerning construction, should be changed to require steel walls and decks only for manned spaces and that the existing regulations are inappropriately based on those for vessels.

We agree and propose to incorporate the standards for fixed facilities in the OCS Activities NPRM.

(h) One comment remarks that the emergency equipment requirements in § 149.211 are duplicative of other, more detailed sections.

We agree and propose to remove this section.

(i) One comment suggests that the requirement in § 149.215 prohibiting the installation of navigation, communication, or radar equipment so as to interfere with helicopter operations is unnecessary because it is addressed in the National Fire Protection Association, National Fire Code No. 407, which is already incorporated by reference and required by § 149.213 (proposed § 149.655).

NFPA 407 has been revised and no longer addresses physical interferences with helicopter operations. Instead, we propose to incorporate the American Petroleum Institute standard API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, in proposed § 149.625(f). This standard would apply to fixed deepwater ports and does address physical interferences with helicopter operations. Therefore, we propose to remove existing § 149.215.

(j) One comment states that discharge containment and removal requirements in §§ 149.319, 150.407, and 150.409 are already covered in the facility's response plan required by the Oil Pollution Act of 1990 (OPA 90).

We agree with this comment and have removed the pollution response equipment requirements found in §§ 149.319, 150.407, and 150.409.

(k) Two comments state that §§ 149.451 through 149.479, 150.504, 150.505, and 150.507 are unnecessary because a fixed fire-main system for water is not required on Outer Continental Shelf (OCS) and Oil or Hazardous Material in Bulk (OHMB) facilities and because the regulations should allow for use of dry chemicals.

In limited circumstances, MMS does allow the use of dry chemical systems without a fire main system. However, on facilities that are permanently manned, as are deepwater ports, MMS requires the installation of a fire main system. Dry chemical extinguishers may be used in addition to the fire main system. Therefore, we do not propose to delete these requirements.

(l) One comment on § 149.481 states that halogenated agents are no longer considered safe and should be removed from the regulations.

We agree and propose to remove the references to halogenated fixed fire fighting system agents.

(m) One comment addressing § 149.483 states that the Coast Guard should allow the use of dry chemicals in the fire fighting system for helicopter landing pads.

The provision in the OCS Activities NPRM, which we propose to use for deepwater ports, includes, as an option, the use of dry chemicals in the fire protection system.

(n) One comment addresses § 149.491, concerning fire detection systems. The comment recommends that fire detection systems be required only for enclosed, non-sleeping spaces.

We propose to adopt the regulations for fire detection systems in the OCS Activities NPRM, except that the existing deepwater port (LOOP) would be allowed to use its currently installed system until replaced. The proposed change calls for the system to be installed in all accommodation and service spaces, which would resolve the issue addressed by the first comment.

(o) One comment states that there are no requirements for fire detection systems for OCS and OHMB facilities and, therefore, these systems are unnecessary for deepwater ports.

We do not agree. Requirements for fire detection systems are proposed for fixed facilities in the OCS Activities NPRM and, therefore, are being proposed for deepwater ports.

(p) One comment states that the requirement in § 149.505 for the carriage of spare charges for 50 percent of all portable extinguishers is unnecessary.

We agree and propose to delete this requirement.

(q) Two comments on § 149.517 state that firemen's outfits are unnecessary on deepwater ports because personnel generally make some attempt to put out a fire first. Then, if the fire is not brought under control, they evacuate the facility.

We do not agree. Firemen's outfits are necessary for personnel who may have to rescue others who are trapped by fire. The OCS Activities NPRM proposes a requirement for two firemen's outfits. Therefore, we propose this requirement for deepwater ports.

(r) One comment states that the requirements in § 149.539 for portable lights are overly intrusive and detailed, requiring the selection and use of specific equipment.

We agree and propose to allow personnel on deepwater ports to use lights and supply cords suitable for the environment in which they are used.

(s) One comment concerning markings for piles in § 149.793 states that this requirement should not be applicable to deepwater ports because of the water depth.

The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible to vessels transiting the area. To avoid any further confusion, we propose to amend this section to clarify this point.

(t) Three comments recommend adopting the operations manual requirements in §§ 154.300 through 154.320.

We agree and have aligned, to the extent practicable, the proposed operations manual requirements with those in 33 CFR 154.310 through 154.320 for OHMB facilities.

(u) One comment recommends that the Captain of the Port (COTP), instead of the Commandant as in § 150.105, be the approval authority for the original approval of the operations manual.

We do not agree that the COTP should be the final approval authority for the operations manual, because the Commandant reviews the submitted operations manual as part of the application process for a deepwater port license. Therefore, we propose no change to this requirement.

(v) One comment suggests that the requirement in § 150.106 for 25 copies of the operations manual is unnecessary and should be reduced to five.

We agree and propose to require the licensee to provide at least five copies of the operations manual to the Commandant (G–M).

(w) One comment states that the requirement in § 150.125, concerning water depth measurements, is unnecessary because deepwater ports are designed, located, and approved with a stable ocean floor.

This provision is not in the OCS Activities NPRM. We agree that this regulation is unnecessary and propose to delete it.

(x) One comment suggests that we remove § 150.419 on stopping oil transfers and move it to the operations manual.

We agree. We propose to move the shut down procedures for stopping oil transfers to the operations manual. See § 150.15(h)(6) in this proposal.

(y) One comment states that the requirement in § 150.421, concerning the displacement of oil in a single point mooring-oil transfer system (SPM–OTS), is impractical for deepwater ports.

We have decided to retain this provision. It is primarily intended for situations where the hose will not be used for long periods of time or when heavy weather threatens. Operators may apply for an exemption on a case-by-case basis, under proposed part 148, subpart F.

(z) One comment states that § 150.513, Sanitation, was unnecessary because of accepted industry standards.

We agree and propose to remove this regulation.

(aa) Two comments suggest that the requirement in § 150.516 that fire-fighting and rescue personnel present during aircraft operations be "appropriately clothed and sufficiently qualified" is impractical, vague, and not addressed in the regulations for OCS and OHMB facilities.

The deepwater ports regulations do not state what clothing is "appropriate" and what qualifications are "sufficient."

We agree that these provisions are unnecessary and propose to remove them.

(bb) One comment states that the regulations for housekeeping (§ 150.521) and illumination of walking and working areas (§ 150.523) are unnecessary because of Occupational Safety and Health Administration (OSHA), industry, and insurance standards.

We agree and propose that these provisions be removed from the regulations and addressed in the operations manuals.

(cc) Two comments state that the requirements for emergency medical technicians in § 150.525 are unnecessary.

We propose to adopt the workplace safety and health requirements in proposed § 142.366(c) of the OCS Activities NPRM, which would require that the technician be registered with the National Registry of Emergency Technicians (EMT) at the EMT-Intermediate level.

(dd) One comment states that the oil throughput report required in § 150.707 is no longer needed because the Deepwater Port Liability Fund was superseded by the Oil Spill Liability Trust Fund under the Oil Pollution Act of 1990 (OPA 1990).

We agree and propose to remove this requirement because the National Pollution Funds Center no longer requires this report for any purpose.

(ee) One comment suggests that we remove § 150.757, concerning the oil throughput log, because U.S. Customs already requires this log for customs tariffs.

We agree and propose to remove this requirement.

(4) Should the Outer Continental Shelf Activities regulations (33 CFR chapter I, subchapter N) be applied to Deepwater Ports?

Three comments suggest that certain sections of the deepwater port regulations should be similar to those for fixed facilities on the OCS. These sections, primarily concerning safety equipment, are §§ 149.206, 149.217, 149.421, 149.431, 149.441, 149.515, 149.521, 149.523, 149.525, 149.527, 150.509, and 150.527.

We propose to adopt, for deepwater ports, the provisions on these subjects found in the OCS Activities NPRM for fixed facilities.

(5) Should the regulations for facilities transferring oil or hazardous material in bulk (OHMB facilities) in 33 CFR part 154 be applied to deepwater ports?

(a) One comment states that, though the OHMB facility regulations contain a number of operating standards that are followed by the petroleum industry, not all of them are applicable to deepwater ports. It contends that a deepwater port is unique in its licensing and application protocols and environmental risks and should not have all of the same requirements as an onshore facility. Another comment suggests that we align the deepwater port regulations with those for OHMB facilities in §§ 154.300 and 154.320 (operations manual), 154.560 (communications), 154.735 (safety requirements), and 156.150 (declaration of inspection).

We agree with the suggestion, except as to §§ 154.300 and 154.735. Section 154.735 is not suitable for deepwater ports because it addresses concerns for onshore facilities. Only certain provisions of § 154.300 are suitable for deepwater ports, such as the provisions on what should be in the operations manual and how the manual should be maintained.

(b) Another comment states that we should organize all of part 150 along the lines of 33 CFR part 154.

We disagree. Though there are similarities between deepwater ports and onshore facilities, not all regulations are suitable for both.

(6) Should the environmental monitoring program be revised?

The comments received concerning the environmental monitoring program suggest that we eliminate the program. One comment states that the environmental monitoring program should not be addressed in the regulations but be kept in the operations manual or licensing process, as appropriate.

We agree with the comment that suggests that we not include it in the regulations. Under the proposed rule, the environmental monitoring program is addressed in the operations manual and may also be part of the license.

(7) What other regulations, if any, should we align the deepwater port regulations with?

(a) One comment suggests that we delete the aids to navigation requirements in parts 149 and 150 and refer to 33 CFR chapter I, subchapter C, Aids to Navigation, instead.

We do not agree. The requirements for aids to navigation for deepwater ports contain detailed provisions not found in subchapter C, such as the technical requirements for lights.

(b) One comment concerning notice of arrival of tankers at a deepwater port (§ 150.333) suggests that we rely on 33 CFR 160.207 and 160.211, which already address notice of arrival for vessels.

We agree that this section should reference 33 CFR 160.207 and 160.211 and propose this change.

(c) One comment suggests that extra lifesaving and fire fighting equipment be approved by the American Bureau of Shipping (ABS) rather than under 46 CFR parts 160 or 162, as required by 33 CFR 149.402.

We do not agree. Although ABS provides some technical review and inspection functions, it does not approve lifesaving gear or fire fighting equipment on behalf of the Coast Guard.

What Methods Did We Use To Make the Proposed Regulations More Readable?

One of the most noticeable changes in the proposed rule is in its organization and style. We use many plain-language techniques in this document. These techniques are intended to make the regulations easier to follow and understand. Some plain-language techniques include the use of—

1. The active voice to clarify who is responsible;
2. Section headings with text in a question-and-answer format to organize and convey the information in a logical way;
3. Common, everyday words, except for standard technical terms;
4. Short sentences for easier readability; and
5. Personal pronouns that directly address the reader.

These and similar techniques are consistent with the requirements of the Presidential Memorandum, "Plain Language in Government Writing" (63 FR 31885, June 1, 1998). We ask for your comments on the organization, style, and readability of this document.

What Are the Proposed Substantive Changes?

The following is a discussion of the proposed, substantive changes to the existing regulations. They are arranged in sequential order, by section number, as the sections appear in the current Code of Federal Regulations.

33 CFR 148.3 and 150.403 on Definitions

We propose to move the definitions in § 150.403 to § 148.3. This will simplify the reading of the regulations. The definitions of "Affiliate" and "Deepwater port" are defined by statute and will be revised to cite their statutory definitions. We propose to add the definitions of "Adjacent coastal state," "Administrator of the Maritime Administration," "Applicant," "Application," "Approval series," "Citizen of the United States," "Coastal environment," "Coastal state," "Commandant (G–M)," "Construction," "Control," "District Commander," "Governor," "Lease block," "License," "Marine environment," "Officer in Charge Marine Inspection," "Person," "Personnel," "Safety zone," "State," "Secretary," and "Survival craft." We propose to delete the term "Marine site" because of changes in the proposed regulations that eliminate its use. We propose to update the definitions of "PAD District" and "Refining District" to reflect the change in agencies' handling of information on production of crude petroleum and revise the definition of "crude oil."

33 CFR 148.105, 148.107, and 148.213 on Application for a License

After reconsidering the number of copies of an application that the applicant must submit, we propose to reduce the number of copies required in these sections from 60 to 16, plus two copies for each adjacent coastal State.

We propose to change the $100,000 nonrefundable fee in § 148.107 to $350,000 to reflect the cost of inflation since 1975, when this provision was issued. The proposed amount is based on the Consumer Price Index of the Bureau of Labor Statistics, U.S. Department of Labor, and was calculated using the average percentage change year to year from 1975 to 1999.

33 CFR 148.109(e)(6)(i) and (ii), 148.109(e)(7), and (e)(9) Through (e)(13), and 148.323(b)(6) on Financial Information

We propose to remove these sections. They deal with the antitrust review that the Deepwater Port Modernization Act of 1996 eliminated.

33 CFR 148.109(f) on Reporting the Experience of the Applicant's Contractors

We propose to remove the requirement for reporting the experience of contractors with which a deepwater port proposes to make a contract. The proposed regulation would require information only from the contractor with whom the deepwater port applicant actually makes a contract or has a letter of intent.

33 CFR 148.109(t) on the "Guide to Preparation of Environmental Analyses for Deepwater Ports."

As suggested by the Environmental Protection Agency (EPA) and industry, we propose to remove the reference to the "Guide to Preparation of Environmental Analysis for Deepwater Ports" because of its outdated information. As a result, the current guidelines for environmental analyses are added to proposed appendix A to part 148. This will provide more flexibility in developing the environmental analysis and be more consistent with current practices and existing guidance.

33 CFR 148.211(c) on Processing an Application

We propose to remove this section to reduce the paperwork burden on the applicant.

33 CFR 148.507(c) and (d) on Reports of Site Evaluation and Pre-Construction Testing

We propose to combine paragraphs (c) and (d), which require preliminary and final reports, and require only a final report. The applicant would be given 120 days to submit this report.

33 CFR 149.203(d) on Photographic Records

We propose to remove the requirements for submitting drawings and specifications on 105-mm negatives and propose to let the licensee determine the most feasible way to record these drawings and specifications.

33 CFR 149.205 on Design Standards

In § 149.205(b), we propose to reference the updated American Petroleum Institute (API) recommended practice, API RP 2A–WSD (Working Strength Design), instead of the currently referenced API RP 2A. This updated recommended practice would apply to all deepwater ports contracted for on or after the effective date of the final rule.

As an alternative to API RP 2A–WSD, API developed API RP 2A–LRFD, Load and Resistance Factor Design. It contains the engineering design principles and practices that form the basis of API RP 2A–WSD and uses reliability-based calibration on individual structural members. We propose to allow the use of either API RP 2A–WSD or API RP 2A–LRFD.

For heliports on fixed deepwater ports, we propose to add API RP 2L as the standard for design and construction of heliports. See proposed § 149.625(f).

33 CFR 149.206 on Construction

We propose to align the requirements for structural fire protection with those in proposed §§ 143.1115 through 143.1135 of the OCS Activities NPRM.

33 CFR 149.209, 150.119, and 150.121 on Classification Society Certificates for Single Point Moorings

We propose to combine §§ 150.119 and 150.121 with § 149.209 for easier reading. In addition, we propose to allow a deepwater port licensee to request the use of an alternate classification society's rules for building a single point mooring. We published a final rule (62 FR 67525) on December 24, 1997, on alternate compliance via recognized classification societies for U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units (MODU's).

33 CFR 149.211 on Installed Mountings for Emergency Equipment

We propose to remove this section because this subject is already dealt with in other sections of the OCS Activities NPRM.

33 CFR 149.215 on Interference With Helicopter Operations

We propose to remove this section because it has already been covered in NFPA 407, which is incorporated by reference in this subchapter.

33 CFR 149.217 on First Aid Stations

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.305 (b) on Shutoff Valves for Pipeline End Manifolds

Based on LOOP's experience, we propose to delete the redundant phrase "Cargo Transfer Supervisor's normal place of duty," and replace it with "pumping platform complex." The pumping platform complex is the cargo transfer supervisor's normal place of duty.

33 CFR 149.311(b) on Monitoring the Malfunction Detection System

Section 149.311(a) requires that the oil transfer system have a system to detect and locate leaks. Paragraph (b) requires that the detection system be monitored at the Cargo Transfer Supervisor's place of duty. We propose to remove paragraph (b) because it is vague and unnecessarily restrictive. A system to detect leaks under paragraph (a) would necessarily involve monitoring.

33 CFR 149.317 on Communications Equipment

We propose to align the communications requirements with those in § 154.560.

33 CFR 149.321 on Special Requirements for On-Loading Ports

Based on LOOP's experience, we propose to add a sentence clarifying that, when a vessel-to-vessel transfer occurs at a deepwater port, the deepwater port is not required to receive oil residues.

33 CFR 149.403 on Curbs, Gutters, Drains, and Reservoirs

We propose to amend this section to require only that oil drainages and contaminants not authorized for discharge into the waters be collected in reservoirs.

33 CFR 149.421 on Means of Escape From a Platform

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.423 on Means of Escape From a Helicopter Landing Pad

We propose to align this section with the proposed requirements for means of escape in the OCS Activities NPRM.

33 CFR 149.441 on Guardrails, Fences, Nets, and Toeboards

We propose to align this section with the requirements in the OCS Activities NPRM.

33 CFR 149.477 on Spray Applicators

The final rule published in the **Federal Register** on May 23, 1996, (CGD 95–027, 61 FR 26009) eliminates the requirement for spray applicators. Newer nozzles may be approved without spray applicators. But, all fire hose nozzles approved under 46 CFR part 162, subpart 162.027, before 1996 need to have a spray applicator as approved under that subpart. We propose to include this provision in § 149.425.

33 CFR 149.479 on International Shore Connections

We propose to remove this requirement. Based on experience at LOOP, the connections are rarely used and are an unnecessary cost.

33 CFR 149.481 through 149.483 on Other Fire Extinguishing Systems

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.491 on Fire Detection and Alarm Systems

We propose to align this section with the OCS Activities NPRM, with the following exception. An existing deepwater port would be able to use the fire detection system it currently has installed until the system is replaced.

33 CFR 149.505 and 149.507 on Spare Charges and Marking of Extinguishers

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.511 and 149.513 on Helicopter Landing Areas

We propose to align these sections with the OCS Activities NPRM.

33 CFR 149.515 on Fire Axes

We propose to align this section with the OCS Activities NPRM.

33 CFR 149.521 Through 149.537 on Lifesaving Equipment

We propose to align these sections with the OCS Activities NPRM. An existing deepwater port would be able to keep their existing equipment until it needs replacement.

33 CFR 149.539 on Portable Lights

We propose to revise this section by making it less detailed and by allowing the use of any light or supply cord suitable for the environment where they will be used.

33 CFR 149.543 on the Marking of the General Alarm

As a result of LOOP's experience and to better differentiate between the general alarm and the oil transfer system alarm, we propose to require the letters on the general alarm to be yellow on a red background.

33 CFR 149.703 through 149.775 on Aids to Navigation

We propose to update this section with the latest technological advances and to reorganize it for easier reading.

33 CFR 149.793 on Marking for Piles and Pile Clusters

We propose to clarify this section. The objective of this section is to require that objects protruding from the water, other than platforms and SPM's, be marked so that they are visible from vessels transiting the area.

33 CFR 150.105, 150.106, and 150.107 on the Operations Manual

We propose to remove the reference in § 150.105 to the "Guidelines for Preparation of a Deepwater Port Operations Manual." Instead of this reference, we propose to list, in § 150.15, the items that an operations manual should include. This change would be consistent with the requirements for onshore facilities, which do not reference a separate document listing the items. The new list would require less information than the detailed Guidelines.

Section 150.106 requires that 25 operations manuals be submitted to the Coast Guard. We see no need for this many manuals and propose that only five are submitted.

We propose to align § 150.107, concerning amendments to the operations manual, with the requirements for facilities transferring oil and hazardous material in bulk in § 154.320.

33 CFR 150.119 on Notice of an ABS Certificate

We propose to delete this section, which requires written notification from the licensee to the Commandant upon receipt of the American Bureau of Shipping (ABS) certificates for a single point mooring at a deepwater port.

33 CFR 150.123 on Weather Monitoring

We propose to move these requirements to the operations manual, as suggested by one comment. The day-to-day operation is a more appropriate subject for the operations manual.

33 CFR 150.125 on Water Depth Measurements

We propose to remove this section, as requested in several comments.

33 CFR 150.211 on Qualifications of a Mooring Master

In 1980, LOOP requested that the qualifications for a mooring master include a person with 1 year of experience in charge of an offshore crude oil lightering operation involving tankers of 70,000 DWT or larger. The Coast Guard approved the petition because it maintained a high level of qualification for the job, while expanding the number of U.S. citizens qualified for the job. We propose to include this qualification in this section.

33 CFR 150.333 on Advance Notice of Arrival

To remain consistent with other Coast Guard regulations, we propose to align, to the extent practicable, the regulations for advance notice of arrival with those in 33 CFR 160.207.

33 CFR 150.417 on the Declaration of Inspection

We propose to align the requirement for the declaration of inspection for transferring oil with that for OHMB facilities in 33 CFR 156.150.

33 CFR 150.509 on the Use of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.511 on Maintenance of Personal Protection Equipment

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.513 on Sanitation

One comment states that this regulation was unnecessary in light of accepted industry standards. We agree and propose to remove this section.

33 CFR 150.516 on Aircraft Operations

Helicopter operations on offshore facilities are routine and relatively safe. They do not require that appropriately clothed personnel, as called for in § 150.516, be available on the helicopter deck during helicopter operations. Other offshore facilities are not required to have someone on the deck. Therefore, as one comment requests, we propose to remove this requirement.

33 CFR 150.521 and 150.523 on Housekeeping and Illumination

We propose to move these requirements to the operations manual.

33 CFR 150.525 on Emergency Medical Technicians (EMT's)

One comment suggests that we delete this requirement. In § 142.366(c) of the OCS Activities NPRM, an EMT is required for the rescue team for confined-space entry. We propose to delete § 150.525 because proposed § 150.600 incorporates the OCS Activities provision.

33 CFR 150.527 on First Aid Kits

We propose to align this section with the OCS Activities NPRM.

33 CFR 150.707 on the Oil Throughput Report

We propose to remove this section because, under the Oil Pollution Act of 1990 (OPA 90), the Deepwater Port Liability Fund (DPLF) was superseded by the Oil Spill Liability Trust Fund (OSLTF). All funds remaining in the DPLF were deposited in the OSLTF and oil throughput reports were no longer required.

33 CFR 150.711 on Casualty or Accident Reporting

We propose to update this section to reflect the Coast Guard's changes to the requirements for casualty reporting in other Coast Guard regulations.

33 CFR 150.713 on Sabotage and Subversive Activities

We propose to remove the requirement for a written confirmation following a report of sabotage or subversive activity, because we found that the confirmation is unnecessary.

33 CFR 150.755 on Port Inspection Records

We propose to replace this section with a requirement for an annual self-inspection report to be completed and sent to the local COTP. This self-inspection report would be similar to the Fixed OCS Facility Inspection Report, form CG–5432, required for all fixed OCS facilities.

33 CFR 150.757 on the Oil Throughput Log

One comment in response to the ANPRM suggests that this requirement was covered in other regulations, particularly the U.S. Customs Service, and should be removed. We agree and propose to remove this section.

Where Are Current Deepwater Ports Regulations Located in the Proposed Rule?

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.1	148.1	148.1	148.1
148.3	148.5	148.2	149.105, 150.103
148.101	148.100	148.3	
148.103	148.115	148.5	148.3, 150.204, 150.303, 150.403
148.105	148.110	148.10	
148.107(a) and (b)	148.115	148.100	148.101
148.107(c) through (e)	148.125	148.105	148.109
148.109	148.105	148.107	148.109(z)(1)
148.109(z)(1)	148.107	148.108	148.109(z)(5)
148.109(z)(5)	148.108	148.110	148.105
148.111	148.130	148.115	148.103, 148.107(a), (b)
		148.125	148.107(c) through (e)
		148.130	148.111
148.201	148.200	148.200	148.201
148.203(b)	148.232	148.203	
148.205	148.205	148.205	148.205
148.207	148.207	148.207	148.207
148.211	148.209	148.209	148.211
148.213	148.211	148.211	148.213
148.215	148.213	148.213	148.215
148.216	148.215	148.215	148.216
148.217	148.217	148.217	148.217
148.219	148.221	148.221	148.219
148.231	148.222(a) and (b)	148.222(a) and (b)	148.231
148.233	148.222(c)	148.222(c)	148.233
148.235	148.227	148.227	148.235
148.251	148.228	148.228	148.251
148.253	148.230	148.230	148.253, .283
		148.232	148.203(b), .287, .291
148.255	148.234	148.234	148.255
148.257	148.236	148.236	148.257
148.259	148.232(a)		
148.261	148.238	148.238	148.261
148.263	148.240	148.240	148.263
148.265	148.242	148.242	148.265
148.267	148.244	148.244	148.267
148.269	148.232(a)		
148.271	148.232(a)		
148.273(a) and (c)	148.246	148.246	148.273(a) and (c)
148.273(b)	148.248	148.248	148.273(b)
148.275	148.250	148.250	148.275
148.277	148.232(a)		
148.279	148.232(a)		
148.281	148.252	148.252	148.281
148.283	148.230		
148.285	148.254	148.254	148.285
148.287	148.232		
148.289	148.232, .242		
148.291	148.232(a)		
		148.256	
148.321(a)	148.277	148.276	148.321(b)
148.321(b)	148.276	148.277	148.321(a)
148.323	148.279	148.279	148.323
148.325	148.281	148.281	148.325
148.327	148.283	148.283	148.327
148.400	148.300	148.300	148.400
148.403	148.305	148.305	148.403
		148.307	148.407(a)
148.405	148.310	148.310	148.405
148.407	148.277, .307		
		148.315	
148.501	148.400	148.400	148.501

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
148.503	148.405	148.405	148.503
148.505	148.410	148.410	148.505
148.507	148.415	148.415	148.507
148.509	148.420	148.420	148.509
148.601	148.500	148.500	148.601
148.603	148.505	148.505	148.603
148.605	148.510	148.510	148.605
148.607	148.515	148.515	148.607
148.701	148.600	148.600	148.701
148.703	148.605	148.605	148.703
		148.610	
148 Appendix A	148 Appendix A	148 Appendix A	148 Appendix A
148 Annex A	148 Annex A	148 Annex A	148 Annex A
149.101	149.1	149.1	149.101
149.105	148.2	149.5	
149.201	149.600	149.10	
149.203(a) through (c)	149.615	149.100	149.301
149.203(d)	149.620	149.105	149.303
149.205	149.625	149.110	149.305
149.206	149.640	149.115	149.307
149.209	149.650	149.120	149.309
149.211		149.125	149.311
149.213	149.655	149.130	149.313
149.215		149.135	149.315
149.217	149.680	149.140	149.317
149.301	149.100	149.145	149.403
149.303	149.105	149.150	149.321
149.305	149.110	149.300	
149.307	149.115	149.305	
149.309	149.120	149.310	149.402
149.311	149.125	149.400	
149.313	149.130	149.405	
149.315	149.135	149.410	149.451
149.317	149.140	149.415	149.453
149.319		149.420	149.457
149.321	149.150	149.425(a)	149.467
149.401		149.425(b)	149.469
149.402	149.310 and 149.430	149.425(c)	149.471
149.403	149.145	149.425(d) and (e)	149 473
149.411	149.660	149.430	149.402
149.421	149.690	149.500	149.701
149.423	149.690	149.505	149.705
149.431	149.690	149.510	149.707
149.433	149.690	149.520	
149.441	149.690	149.521	149.703
149.451	149.410	149.523	
149.453	149.415(a) through (c)	149.525	149.727
149.455	149.415(d)	149.527	149.723
149.457	149.420(a) through (c)	149.530	149.751 and 149.753
149.459	149.420(d)	149.531	149.755 and 149.757
149.461	149.420(e)	149.533	149.759
149.463	149.420(f)	149.535	149.797
149.465	149.420(g)	149.540	149.751
149.467	149.425(a)	149.545	149.755
149.469	149.425(b)	149.550	149.753
149.471	149.425(c)	149.555	149.755 and 149.757
149.473	149.425(d)	149.560	149.771 and 149.773
149.477	149.425(e)	149.565	149.773
149.479		149.570	149.791
149.481	149.405	149.575	149.793
149.483	149.405	149.580	149.795
149.491	149.405	149.585	149.799
149.501	149.405	149.600	149.20l
149.503	149.405	149.610	150.117
149.505	149.405	149.615	149.203 (a) and (b)
149.507	149.405	149.620	149.203 (c) and (d)
149.511	149.405	149.625	149.205
149.513	149.405	149.630	New
149.515	149.405	149.640	149.206
149.517	149.405	149.650	149.209 and 150.121
149.521 through 149.537	149.305	149.655	149.213

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
149.539	149.695	149.660	149.411
149.541	149.665	149.665	149.541
149.543	149.670	149.670	149.543
149.545	149.675	149.675	149.545
149.701	149.500	149.680	149.217 and 150.527
149.703	149.521	149.685.	
149.705	149.505	149.690	149.421, .423, .431, .433 and .441
149.707	149.510	149.695	149.539
149.721			
149.723	149.527		
149.724	149.520		
149.725			
149.727	149.525		
149.729			
149.751	149.540		
149.753	149.550		
149.755 (a) and (b)	149.531 (a) and (b)		
149.755 (c)	149.555 (a) and (b)		
149.757 (a)	149.531 (c).		
149.757 (b)	149.545 (a)(3)		
149.757 (c)	149.555 (c)		
149.759	149.533		
149.771			
149.773 (a)	149.560		
149.773 (b)			
149.775	149.565		
149.791	149.570		
149.793	149.575		
149.795	149.580		
149.797	149.535		
149.799	149.585		
150.101	150.1	150.1	150.101
150.103	148.2	150.5	
150.105 (a)—(b)	150.10, 150.105	150.10 (a)—(b)	150.105 (a)—(b)
150.106	150.20	150.10 (c)	150.109
150.107 (a)—(c)	150.25	150.15	150.105
150.107 (d)	150.35	150.20	150.106
150.109	150.10 (c)	150.25	150.107 (a)—(c)
150.113	150.40	150.30	150.107 (a)—(c)
150.115	150.45	150.35	150.107 (d)
150.117		150.40	150.113
150.119		150.45	150.115
150.121		150.50	150.129
150.123		150.100	
150.125			
150.127			
150.129	150.50		
150.201	150.200	150.200	150.201
150.203	150.210	150.205	
150.204	148.5	150.210	150.203
150.205	150.220	150.215	150.217
		150.220	150.205
150.207	150.225	150.225	150.207
150.209	150.230	150.230	150.209
150.211	150.235	150.235	150.211
150.213	150.240	150.240	150.213
150.215	150.245	150.245	150.215
150.217	150.215	150.250	
150.301	150.300	150.300	150.301
150.303	148.5		
150.305			
150.307	150.310	150.310	150.307
150.309 (a) and (b)	150.320		
150.309 (c)	150.365	150.320	150.309 (a) and (b)
150.311		150.325	150.333
150.313		150.330	150.335
150.315	150.345		
150.317	150.355	150.340	150.337
150.333	150.325	150.345	150.315
150.335	150.330	150.350	150.338

TABLE 1.—DISTRIBUTION AND DERIVATION TABLE—Continued

If the regulation is in 33 CFR—	You will find it in the NPRM at proposed—	If you are looking at the proposed NRPM cite—	It is derived from 33 CFR—
150.337	150.340	150.355	150.317, 150.339
150.338	150.350		
150.339	150.355		
		150.365	150.309
150.341	150.370	150.370	150.341
150.342	150.375	150.375	150.342
150.345	150.380	150.380	150.345
		150.385	
150.400	150.400	150.400	150.400
150.403	148.5		
150.405	150.405	150.405	150.405
150.407			150.407
150.409			150.409
150.411	150.420	150.420	150.411
150.413	150.425	150.425	150.413
150.415	150.430	150.430	150.415
150.417	150.435	150.435	150.417
150.419			
150.421	150.447	150.440	150.423
150.423	150.440	150.445	150.425
150.425	150.445	150.447	150.421
150.500	150.500	150.500	150.500
150.503	150.505	150.505	150.503
		150.510	
150.504	150.515	150.515	150.504
150.505	150.520	150.520	150.505
150.507	150.525	150.525	150.507
150.509	150.600	150.530	150.515
150.511	150.600	150.535	150.517
150.513			
150.515	150.530		
150.516		150.600	150.509
150.517	150.535		
150.519			
150.521			
150.523			
150.525	150.600		
150.527	149.680		
150.601	150.700	150.700	150.601
150.603	150.705	150.705	150.603
150.605	150.710	150.710	150.605
150.607	150.715	150.715	150.607
150.611	150.720	150.720	150.611
150.701	150.800	150.800	150.701
150.703	150.805	150.805	150.703
150.705	150.810	150.810	150.705
150.707		150.815	150.711
150.711	150.815	150.820	150.711
150.713	150.835	150.825	
150.751	150.840	150.830	
150.753	150.845	150.835	150.713
150.755		150.840	150.751
150.757		150.845	150.753
150.759	150.850	150.850	150.759
150 Appendix A	150.900 thorough 150.915	150.900	150 Appendix A
150 Annex A	150.935	150.905	150 Appendix A
		150.910	150 Appendix A
		150.915	150 Appendix A
		150.920	147.30
		150.925	147.35
		150.930	147.105
		150.935	150 Annex A

Safety and Environmental Management Program (SEMP)

In keeping with our belief that overall performance should be placed ahead of rote equipment testing and reliance on prescriptive regulations, we are requesting comments on the feasibility of allowing the voluntary use of safety and environmental management programs (SEMP's) as alternatives to certain regulations on workplace safety and health. The Minerals Management Service (MMS) has promoted this approach for offshore facilities since 1991. You can find more information about MMS by accessing the following web site: *http://www.mms.gov/semp/index.htm*. Also, you may refer to the American Petroleum Industry Recommended Practice 75 (API RP 75) entitled, "Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities." API RP 75 is available for a fee from API on the Internet at *http://www.api.org*.

We would like your comments on the pros and cons of the voluntary use of SEMP as an alternative to, or as a complement to, specific provisions in these proposed regulations.

Security and Terrorism

The terrorist attacks of September 11, 2001, have increased our awareness of the vulnerability of deepwater ports to attack. As a result, we are emphasizing a requirement already in the deepwater port regulations that an applicant for a deepwater port license include, within the port's operating manual, a plan to provide for port security that addresses actions to detect and deter potential terrorist threats and to mitigate the consequences of an attack. It is the operator's responsibility to identify risks and describe the actions that will be taken to increase security at a deepwater port. These actions will be developed by the operator, licensee, or both in consultation with the Coast Guard on a case-by-case basis and may include, but not be limited to, control of access to the port, monitoring and alerting vessels that approach or enter the port's security zone, notification requirements in the event of a perceived threat to the port, and response requirements in the event of an attack.

Incorporation by Reference

Material proposed for incorporation by reference appears in proposed § 148.10. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 148.10.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

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). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES.** A summary of the Evaluation follows.

The proposed changes include those to clarify the language and structure of the regulations and also those to update the regulations with current technology and industry standards. In particular, many of the changes proposed in this rulemaking result from our attempt to align, to the extent feasible, the deepwater port regulations with those for fixed facilities in the OCS Activities NPRM. This alignment is accomplished by cross-references, in the deepwater ports NPRM, to provisions in the OCS Activities NPRM. For a complete list of the proposed changes to 33 CFR parts 148, 149, and 150, refer to appendices A and B in the Regulatory Evaluation, located in the docket as indicated under **ADDRESSES.**

Currently, there is only one licensed deepwater port, which is the Louisiana Offshore Oil Port (LOOP), located 18 miles offshore of Louisiana in the Gulf of Mexico. We estimate that this existing deepwater port is already compliant with many of the proposed regulations and also assume that LOOP represents industry standards. Therefore, the baseline we are using to estimate the benefits and costs of this proposed regulation is not the current 25-year old regulation, but rather the existing industry standard established by LOOP. Furthermore, we assume that new deepwater port construction will follow the industry standard. Based upon discussion with industry, we expect two additional deepwater ports will apply for a license within the next decade.

Costs. The total present value cost for the proposed rule for the 10-year period would be $19,996. This estimate was derived as follows. The existing deepwater port is already compliant with many of the proposed regulations. In addition to the existing population (LOOP), costs are also considered for two new deepwater ports, which we estimate will enter the industry in each of the years 2002 and 2005. We expect that these entrants would follow existing industry standards and would, therefore, face the same costs as the existing industry. Proposed changes that would have a quantitative impact are the following:

1. This proposal would require the facility to perform periodic weight testing of survival craft falls if a survival craft has a fall replaced or every 5 years, whichever comes first. This weight testing would ensure the delivery system is operational and ready for use in an emergency. We estimate the present value cost to total $2,311 for all three deepwater ports.

2. This proposal would require the deepwater port to change the marking of the general alarm to yellow letters on a red background. We estimate the one-time present value cost to total $67 for all three deepwater ports.

Although we assume the existing industry is compliant with the majority of the proposed rules, we do not assume that it meets the exact collection of information requirements. Therefore, we have integrated the costs associated with the paperwork burden into the total industry costs. The paperwork burden amounts to the present value cost of $17,618 for all three deepwater ports.

Benefits. The total present value of industry benefits for the proposed rule for the 10-year period would be $4,159. This estimate was derived as follows.

The proposed rulemaking is consistent with the deepwater port industry's request to have its regulations aligned with the OCS regulations. Hence, the accumulated benefits are the result of updating the regulations and removing any that are obsolete or unnecessary. Many of these proposed changes would neither change existing practice nor have a quantitative impact on the existing deepwater port, because the original regulations are obsolete.

Although the collection-of-information requirements represent a majority of the costs of this proposed regulation, they also represent a qualitative benefit. The Coast Guard considers that the proposal would aid its ability to enforce regulations, thereby promoting the safety of life and property on deepwater ports. Furthermore, by deepwater ports recording training and safety inspection information, their own safety level would increase by improving accident readiness, noise

level awareness, and lifesaving equipment preparation.

Some of the proposed changes, which are simply a sunk cost for the existing deepwater port, represent a quantitative benefit for the two new deepwater ports that are expected to enter the industry. These benefits include (1) Lowering the requirement for fire axes from eight to two ($356 present value (PV)), (2) removing the requirement for the carriage of spare charges for 50 percent of all portable extinguishers ($340 PV), and (3) removing the requirement to have appropriately clothed personnel during aircraft operations ($340 PV). In addition, new deepwater ports would also accrue benefits due to the decrease in the collection of information requirements in the license application process. These reductions include (1) removing the requirement for various financial information ($815 PV), (2) reducing the number of application copies ($1,969 PV), and (3) removing the preliminary-report requirement for site evaluation and pre-construction testing ($339 PV).

Small Entities

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

There is one company that owns a deepwater port, LOOP. The NAICS code for LOOP is 488320 Marine Cargo Handling. According to the Small Business Administration's definition, a company with this NAICS code and earning revenue less than $18.5 million per year is considered a small entity. LOOP does not qualify as a small entity because its gross revenue exceeds $18.5 million. We assume that new industry entrants will be comparable in size to LOOP and, thus, would not be small businesses.

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 Robert Spears, Project Development Division (G–MSR–2), telephone 202–267–1099, fax 202–267–4547.

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 collections 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 titles and descriptions of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follows. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collections.

The information collection requirements of this proposed rule are addressed in the OMB collections 2115–0569 and 2115–0580.

1. OMB Collection 2115–0569.

Title: Outer Continental Shelf Activities and Deepwater Ports—Self-Inspection of Fixed Facilities, Confined-Space Entry, and Lifesaving/Firefighting Equipment.

Summary of the Collection of Information: This proposal would add collection-of-information requirements, which would result from the alignment with the OCS Facilities NPRM. The burden is incorporated into the section of this analysis entitled "Costs." In addition to affecting LOOP, we assume the collection would affect a new industry entrant in 2002. The additional requirements would be as follows:

1. Record all onboard training (abandonment drills, fire drills, other lifesaving appliances, and musters) in an official logbook.
2. Maintain a report of monthly tests and inspections of all lifesaving equipment under proposed § 143.615 of the OCS Activities NPRM.
3. Maintain weight-testing written attestments and a report of all inspections.
4. Maintain records of annual tests and inspections of hand-portable fire extinguishers, semi-portable fire extinguishers, and fixed fire extinguishing systems.
5. Establish a written program to reduce the risk of naturally occurring radioactive material (NORM) if there are operations that introduce NORM.
6. Establish a written program to prevent exposure from blood-borne pathogens or other infectious material.
7. Before doing work on equipment that is disconnected from the power source, place a tag at the location where the power is disconnected.
8. Conduct noise-level surveys and maintain results.
9. Issue confined-space entry permits.
10. Provide a certificate for all confined-space entry training.
11. Provide a certificate for all offshore competent persons.
12. Establish a written program for confined-space entry.
13. Establish a written hazard communication program.

Need for Information: The primary need for this information would be to determine if a deepwater port is in compliance with the regulations.

Proposed Use of Information: This information also can help determine, in the event of a casualty, whether failure to meet these regulations contributed to the casualty.

Description of the Respondents: Licensees or operators of deepwater ports.

Number of Respondents: Two.

Frequency of Response: Varies.

Burden of Response: The burden of response would vary depending upon the collection.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 74 hours.

2. OMB Collection 2115–0580

Title: Outer Continental Shelf Activities—Emergency Evacuation Plans for Manned OCS Facilities, MODU's,

and MIDU's; Design & Plan Approvals; In-service Inspection Plan & Letter of Compliance. Deepwater Ports—License Application and Notice and Report of Site Evaluation and Pre-construction Testing.

Summary of the Collection of Information: This proposal would change the collection-of-information requirements for the license application. The burden is not incorporated into "Costs" because it is not a new cost. Instead, the proposed regulation reduces the requirements for a deepwater port license applicant. The associated benefits are reflected in the section entitled "Benefits." The proposed requirements include the following:

1. License application.
2. Notice and report for site evaluation and pre-construction testing.

Need for Information: The primary use of this information would determine if an applicant for a deepwater port meets the necessary requisites.

Proposed Use of Information: The information determines whether a proposed deepwater port is constructed.

Description of the Respondents: Deepwater port applicants.

Number of Respondents: One.

Frequency of Response: Once.

Burden of Response: The burden of response would be 221 hours for the license application and 12 hours for the notice and report for site evaluation and pre-construction testing.

Estimate of Total Annual Burden: The average annual reporting burden to industry is 78 hours.

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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. This rulemaking applies to deepwater ports only in waters beyond the territorial limits of the United States (33 U.S.C. 1501(a)(1)). As regulation of these deepwater ports is outside of the jurisdiction of the States, this rulemaking would not preempt State law.

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 discretionary regulatory actions. 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraphs (34)(a), (c), (e), and (i), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, and improved facilities under this rulemaking would be insignificant. The environmental impact of an individual deepwater port is assessed under the licensing process. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 148

Administrative practice and procedure, Environmental protection,

Harbors, Incorporation by reference, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 33 CFR chapter I, subchapter NN, as follows:

PART 148—DEEPWATER PORTS: GENERAL

SUBCHAPTER NN—DEEPWATER PORTS

Subpart A—General

Sec.

Subpart B—Application for a License

Subpart C—Processing Applications

General

Public Meetings

Formal Hearings

Approval or Denial of the Application

Subpart D—Licenses

Subpart E—Site Evaluation and Pre-Construction Testing

Subpart F—Exemption from Requirements in this Subchapter

Subpart G—Limit of Liability

Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General

§ 148.1 What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design and equipment, and operation of deepwater ports under the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501–1524) (the Act).

§ 148.2 Who is responsible for carrying out this subchapter?

Unless otherwise specified, the owner of a deepwater port must ensure that the requirements of this subchapter are carried out at that port.

§ 148.3 What Federal agencies are responsible for carrying out the Deepwater Port Act?

Under 49 CFR 1.46(s), the Coast Guard is authorized to do the following:

(a) To process applications for the issuance, transfer, or amendment of licenses for deepwater ports in coordination with the Administrator of the Maritime Administration; and

(b) To carry out the functions and responsibilities vested in the Secretary of Transportation by the Act, except for those—

(1) Reserved by the Secretary of Transportation under 49 CFR 1.44(o) (authority to issue, transfer, and amend a license);

(2) Delegated to the Administrator of the Maritime Administration under 49 CFR 1.66(aa) (approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses); and

(3) Delegated to the Administrator of the Research and Special Programs Administration under 49 CFR 1.53(a)(3) (pipelines).

§ 148.5 How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) As used in this subchapter—

Act means the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501–1524).

Adjacent coastal State means any "coastal State" that—

(1) Would be directly connected by pipeline to a "deepwater port";

(2) Would be located within 15 miles of a "deepwater port"; or

(3) Is designated as an "adjacent coastal State" by the Secretary of Transportation under 33 U.S.C. 1508(a)(2).

Administrator of the Maritime Administration means the Associate Administrator, Port, Intermodal and Environmental Activities, Maritime Administration, or that individual's authorized representative, at 400 Seventh Street SW., Washington, DC 20590, telephone 202–366–4721.

Affiliate means a "person"—

(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";

(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;

(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or

(4) That is owned or "controlled" by, or under common ownership with, an "applicant" or an entity under paragraphs (1), (2), or (3) of this definition.

Applicant means a "person" that is the owner of a proposed deepwater port and that is applying for a license under this part for that port.

Application means an application submitted under this part for a license to own, construct, and operate a deepwater port.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g__m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Document, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

Approved means approved by the "Commandant (G–M)".

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60° Fahrenheit (16° Celsius).

Captain of the Port or *COTP* means a Coast Guard officer who commands a Captain of the Port zone described in part 3 of this chapter and who is immediately responsible for enforcing port safety and security and marine environmental protection regulations within that area.

Citizen of the United States means—

(1) An individual who is a United States citizen by law, birth, or naturalization;

(2) A "State";

(3) An agency of a "State" or a group of "States"; or

(4) A corporation, partnership, or association—

(i) That is organized under the laws of a "State" or the United States;

(ii) That has, as its president or other executive officer, an individual who is a United States citizen by law, birth, or naturalization;

(iii) That has, as its chairman of the board of directors or holder of a similar office, an individual who is a United States citizen by law, birth, or naturalization; and

(iv) That has at least the number of directors required for a quorum necessary to conduct the business of the board who are United States citizens by law, birth, or naturalization.

Coastal environment means the navigable waters (including the lands in and under those waters), internal waters, and the adjacent shorelines (including waters in and under those shorelines). The term includes transitional and inter-tidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife, and other living resources of those waters and lands; and the recreational and scenic values of those lands, waters, and resources.

Coastal State means a State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans or the Gulf of Mexico.

Commandant (G–M) means the Assistant Commandant for Marine Safety, Security and Environmental Protection, or that individual's authorized representative, at Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

Construction means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a "deepwater port" or any of its components. The term includes, but is not limited to, pile driving and bulkheading and alterations, modifications, or additions to the "deepwater port".

Control means the power, directly or indirectly, to determine the policy, business practices, or decision-making process of another "person", whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or by other means.

Crude Oil means a mixture of hydrocarbons that exist in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes—

(1) Liquids technically defined as crude oil;

(2) Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casing head) gas in lease separators; and

(3) Small amounts of non-hydrocarbons produced with the oil.

Deepwater port means a fixed or floating man-made structure (other than a "vessel"), or a group of structures, located beyond the territorial sea and off the coast of the United States and that are used, or intended for use, as a port or terminal for the transportation, storage, and further handling of oil for transportation to any "State" (except as otherwise provided in 33 U.S.C. 1522), and for other uses not inconsistent with the purposes of this subchapter, including transportation of oil from the United States Outer Continental Shelf. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark.

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Governor means the Governor of a "State" or the "person" designated by State law to exercise the powers granted to the Governor under the Act.

Gross under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is moored or anchored in calm water free of wind, current, or tide conditions that would cause the tanker to move.

Hose string means the part of a "single point mooring oil transfer connection" made out of flexible hose of the floating or float/sink type that connects the tanker's manifold to the "single point mooring".

Lease block means an area established either by the Secretary of the Interior under section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) or by a State under section 3 of the Submerged Lands Act (43 U.S.C. 1311).

License means a license issued under this part to own, construct, and operate a "deepwater port".

Licensee means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed under this subchapter.

Marine environment includes the "coastal environment", waters of the contiguous zone, the exclusive economic zone, and the high seas; the fish, wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

Net under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is underway, anchored, or moored and subject to actual wind, waves, current, and tide motion.

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing a "deepwater port".

Oil means petroleum, crude oil, and any substance refined from petroleum or crude oil.

PAD District means one of the five Petroleum Administration for Defense Districts defined by the Energy Information Administration (EIA), Department of Energy, in their Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.*

Person means an individual, corporation, partnership, limited liability partnership, limited liability company, association, joint venture, or trust arrangement and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Personnel means individuals who are employed by licensees, operators, contractors, or subcontractors and who are on a "deepwater port" by reason of their employment.

Pipeline end manifold means the pipeline end manifold at a "single point mooring".

Platform means a fixed structure that rests on or is embedded in the seabed and that has floors or decks where an activity or specific function may be carried out.

Production District means the States of Louisiana, New Mexico, and Texas and each district within those states for which the Energy Information Administration (EIA), Department of Energy, separately reports production of crude oil.

Pumping platform complex means a "platform" or a series of interconnected "platforms" that have one or more of the following features or capabilities:

(1) Can pump oil between a "vessel" and the shore.

(2) Can handle the mooring and loading of small "vessels".

(3) Have berthing and messing facilities.

(4) Have a landing area for helicopters.

Refining District means a refining district as defined by the Energy Information Administration (EIA), Department of Energy, for reporting refining operations. The refining districts are subsidiaries of "PAD Districts" and can be found listed in EIA's Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil_gas/petroleum/pet_frame.html.*

Safety zone means the safety zone established around a "deepwater port" under part 150, subpart J, of this chapter.

Single point mooring or *SPM* means an offshore berth that links an undersea pipeline to a tanker moored to the mooring and allows for the transfer of oil between the tanker and the pipeline.

Single point mooring-oil transfer system or *SPM–OTS* means the part of the oil transfer system from the "pipeline end manifold" to the end of the "hose string" that connects to the tanker's manifold.

State includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Support vessel means a—

(1) Tug;

(2) Linehandling boat;

(3) Crewboat;

(4) Supply vessel;

(5) Bunkering vessel;

(6) Barge; or

(7) Other similar vessel working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a port. The term includes lifeboats, life rafts, buoyant apparatus, survival capsules, and life floats. The term does not include "rescue boats," unless the "rescue boats" are also "approved" as lifeboats.

Tanker means a vessel that calls at a "deepwater port" to unload oil at a "single point mooring."

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on or through the water.

§ 148.10 How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

ABS Technical Publications, 16855 Northcase Drive Houston, TX 77060

Rules for Building and Classing Single Point Moorings, 1996 ..... 149.650
150.405

American National Standards Institute (ANSI)

11 West 42nd Street, New York, NY 10036, or on the Internet at http://www.ansi.org

ANSI B31.4–98. Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 1998 edition 149.625

American Petroleum Institute (API)

Order Desk, 1220 L Street, NW, Washington, DC, 20005–4070, or on the Internet at http://www.api.org

API RP 2A–WSD, Working Stress Design, Twentieth Edition, December, 2000 ..... 149.625

API RP 2A–LRFD, Load and Resistance Factor Design, First Edition, February, 1997 ..... 149.625

API RP 2L, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, May 1996 149.625

API RP T–1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995 ..... 150.250

API RP T–4, Training of Offshore Personnel in Non-operating Emergencies, Second Edition, November 1995 ..... 150.250

API RP T–7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995 ..... 150.250

American Society of Mechanical Engineers (ASME)

3 Park Avenue, New York, NY 10016–5990

Boiler and Pressure Vessel Code, sections I, IV, and VIII, 2001 edition 149.625

International Association of Marine Aids to Navigation and Lighthouse Authorities (AISM/IALA)

20 ter, rue Schnapper, 78100 Saint Germain en Laye, France

Recommendations for the Colours of Light Signals on Aids to Navigation 149.525

Recommendations on the Determination of the Luminous Intensity of a Marine Aid to Navigation Light, December 1977 ..... 149.521

National Fire Protection Association (NFPA)

Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101.

NFPA 72, National Fire Alarm Code®, 1999 Edition 149.405

NFPA 407, Standard for Aircraft Fuel Servicing, 1999 Edition 149.655

Underwriters Laboratories, Inc. (UL)

Available from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112; telephone 800–854–7179

UL 19 Lined Fire Hose and Hose Assemblies, 2001 ..... 149.425

UL Hazardous Location Equipment Directory, 2001, Portable Lighting Units 149.645

Subpart B—Application for a License

§ 148.100 What is the purpose of this subpart?

This subpart describes how to apply for a license to own, construct, and operate a deepwater port.

§ 148.105 What must I include in my application?

Your application must include the following:

(a) *The identity of the applicant and its affiliates and consultants.* (1) The name, address, telephone number, citizenship, and principal business activity of the applicant and its affiliates.

(2) The name, address, and principal business activity of each subsidiary or division of the applicant or its affiliates that participated in the decision to apply for a license to build a deepwater port.

(3) A description of how each affiliate is associated with the applicant and of the ownership interest each affiliate has in the applicant.

(4) A list of corporate officers and directors of the applicant and each affiliate that participated in the decision to apply for a license to build a deepwater port.

(5) A statement on the history of the applicant and affiliates for the last 5 years, including whether they filed for bankruptcy and if so the dates, the disposition and any reorganization that may have resulted; whether there have been any violations of state or federal laws; and whether there is outstanding litigation.

(6) A declaration regarding lobbying activities on behalf of either the applicant or an affiliate under 31 U.S.C. 1352.

(b) *Experience in matters relating to deepwater ports.* (1) A description of the experience of the applicant, its affiliates, and its consultants in offshore operations, particularly operations involving the transfer and storage of liquid cargo and the loading and unloading of vessels.

(2) For each affiliate with which the applicant has made a significant contract for the construction of any part of the deepwater port, a description of that affiliate's experience in construction of marine terminal facilities, offshore structures, underwater pipelines, and seabed foundations and a description of other experiences that would bear on the affiliate's qualification to participate in the construction of a deepwater port.

(c) *The identity of each engineering firm, if known, that will design the deepwater port or a portion of the port.* The firm's—

(1) Name;

(2) Address;

(3) Citizenship;

(4) Telephone number; and

(5) Qualifications.

(d) *Information on citizenship, incorporation, and authority of the applicant.*

If the applicant is applying as—	Then the applicant must submit—
(1) An individual, a group of individuals, or a partnership	An affidavit from each individual stating that each is a citizen of the United States of America.
(2) A corporation	One copy of the charter signed by the Secretary of State or authorized official of the State of incorporation and one copy of the corporate by-laws certified by the corporation's secretary or assistant secretary.
(3) A State or combination of States or any political subdivision, agency, or instrumentality of a State, including a wholly owned corporation.	A copy of the State laws authorizing the operation of a deepwater port.
(4) A Limited Liability Company	Article of organization and any related amendments.

(e) *Address for service of documents.* The name and address of one individual who may be served with documents in case a formal hearing is held concerning the application, and the name and address of one individual who may receive other documents.

(f) *Location and use.* The proposed location and capacity of the deepwater port and a general description of the anticipated use of the port.

(g) *Financial information.* (1) For the applicant and each affiliate—

(i) Annual financial statements, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; and

(ii) Interim income statements and balance sheets for each quarter, unless included in the most recent annual financial statement, that ends at least 30 days before submission of the application.

(2) An estimate of construction costs, including—

(i) A phase-by-phase breakdown of costs;

(ii) The estimated completion dates for each phase; and

(iii) A detailed estimate of the cost of removing all of the marine components of the deepwater port, other than pipelines that lie beneath the seabed, when operations at the port cease.

(3) Annualized projections or estimates of each of the following, along with the underlying assumptions, for the next 5 years and at reasonable intervals throughout the life of the deepwater port:

(i) Total oil throughput and subtotals showing throughput owned by the applicant and its affiliates and throughput owned by others.

(ii) Projected financial statements, including a balance sheet and income statement.

(iii) Annual operating expenses, showing separately any payment made to an affiliate for any management duties carried out in connection with the operation of the deepwater port.

(4) A copy of all proposals or agreements concerning the management and financing of the deepwater port, including agreements relating to throughputs, capital contributions, loans, guarantees, commitments, charters, and leases.

(5) To the extent known to the applicant or its affiliates, the anticipated—

(i) Total refinery capacity;

(ii) Total runs to stills; and

(iii) Total demand for gasoline, jet aviation fuel, distillate fuel oils, and other refinery products for each Refining District in the PAD where oil from the deepwater port will be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(h) *Construction contract and studies.* (1) A copy of each contract that the applicant made for the construction of any component of the deepwater port or for the operation of the port.

(2) A listing and abstract of—

(i) All completed or ongoing studies on deepwater ports conducted by or for the applicant; and

(ii) All other related studies used by the applicant.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1341(a)(1), will be satisfied.

(2) In those cases where certification under 33 U.S.C. 1341(a)(1) must be obtained from the Administrator of the Environmental Protection Agency, the request for certification.

(j) *Coastal zone management.* Each certification required by section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456).

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification should be made on Official Outer Continental Shelf Leasing Maps or Protraction diagrams, where they are available. For each lease block, provide the following:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of the rights-of-way to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that anyone, including the applicant, has in each block; and

(3) Detailed information concerning the present and planned use of each block.

(l) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities, including—

(1) Floating structures;

(2) Fixed structures;

(3) Aids to navigation;

(4) Manifold systems; and

(5) Onshore storage areas, pipelines, and refineries.

(m) *Site plan for marine components.* A site plan consisting of the following:

(1) The proposed size and location of all—

(i) Fixed and floating structures;

(ii) SPM swing circles;

(iii) Maneuvering areas;

(iv) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

(v) Recommended anchorage areas;

(vi) Recommended mooring areas for support vessels;

(vii) Required and recommended aids to navigation; and

(viii) Pipelines and cables within the marine site.

(2) The charted water depth throughout the proposed marine site, as verified by the reconnaissance hydrographic survey in paragraph (m)(3) of this section.

(3) A reconnaissance hydrographic survey of the proposed marine site. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license.

(n) *Soil data.* An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site and along the path of the pipeline to the shore and onshore. The analysis must include an opinion by a registered professional engineer specializing in soil mechanics concerning—

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor;

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms or lesser forces that occur over time, including any history of accretion or erosion of the coastline near the marine site.

(o) *Operational information.* (1) The maximum length, draft, and deadweight tonnage of the tankers to be accommodated at each SPM.

(2) Calculations, with supporting data and other documentation, to show that the charted water depth at each proposed SPM location is sufficient to provide at least a net under-keel clearance of 5 feet (1.5 meters) for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft operations manual during which the following would occur:

(i) Shutdown of oil transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone around the proposed port.

(p) *Data on floating components.* (1) A description and preliminary design drawing of each floating component, including the hoses, anchoring or securing structure, and navigation lights if the component is a mooring buoy.

(2) The design criteria, developed under part 149 of the chapter, to which each floating component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(6) A description of lighting to be used on floating hoses for night detection.

(q) *Data on fixed offshore components.* (1) A description and preliminary design drawing for each fixed offshore component.

(2) The design criteria, developed under part 149 of the chapter, to which each fixed offshore component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed offshore component and used in the development of the application.

(6) A description of the following equipment to be installed:

(i) Navigational lighting.

(ii) Safety equipment.

(iii) Lifesaving equipment.

(iv) Fire fighting equipment.

(v) Pollution prevention and removal equipment.

(vi) Waste treatment equipment.

(7) A description and preliminary design drawing of the following:

(i) The oil pumping equipment.

(ii) The piping system.

(iii) The control and instrumentation system.

(iv) Any associated equipment, including oil-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.

(8) The personnel capacity of each pumping platform complex.

(r) *Data on offshore pipelines.* (1) A description and preliminary design drawing of the marine pipeline, including—

(i) Size;

(ii) Throughput capacity;

(iii) Length;

(iv) Depth; and

(v) Protective devices.

(2) The design criteria to which the marine pipeline will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and how each crossing will be made.

(s) *Data on onshore components.* (1) A description of the location, capacity, and ownership of all planned and existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities that will be served by the deepwater port. A deepwater port serves a facility if the facility is within a PAD District for which information is required under paragraph (g)(5) of this section and is either served by connection to a common carrier pipeline or to a component or auxiliary of a common carrier pipeline. Crude oil gathering lines and lines wholly within a facility must be included in data on onshore components only if specifically required under paragraph (cc) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(2) A chart showing the location of all planned and existing—

(i) Onshore pipelines;

(ii) Storage facilities;

(iii) Refineries;

(iv) Petrochemical facilities; and

(v) Transshipment facilities to be served by the deepwater port.

(3) The throughput reports for the calendar year preceding the date of the application for the applicant and each of the applicant's affiliates engaged in producing, refining, or marketing oil, along with a copy of each existing or proposed throughput agreement. Each throughput report must list the throughput of the following products:

(i) Crude oil.

(ii) Gasoline.

(iii) Jet aviation fuel.

(iv) Distillate fuel oils.

(v) Other refinery products.

(t) *Data on miscellaneous components.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include—

(i) The type of radar;

(ii) The characteristics of the radar; and

(iii) The antenna location.

(3) A description of the method to be used for bunkering vessels using the deepwater port.

(4) Type, size, and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of shore-based support facilities, if any, to be provided for vessels described in paragraph (t)(4) of this section.

(u) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port, including anticipated dates of completion for each specific component for each phase of construction.

(v) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter. If the information required for the manual is not available, state why it is not and when it will be available.

(w) *Environmental impact analysis.* An analysis, as required by the National Environmental Policy Act, of the potential for impacts on the natural and human environments, including evidence of compliance with all applicable environmental laws. See appendix A to this part.

(x) *Aids to navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. Specify latitude and longitude to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.

(2) For each proposed obstruction light and rotating lighted beacon—

(i) The color;

(ii) Characteristic;

(iii) Effective intensity (See § 149.521 of this chapter.);

(iv) Height above water; and

(v) General description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy—

(i) The shape;

(ii) The color;

(iii) The number or letter;

(iv) The depth of water in which located; and

(v) A general description of any light or fog signal apparatus on the buoy.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(y) *Telecommunications equipment.* A description of each radio station or other communications facility to be used during construction and operation of the deepwater port and their proposed concept of operation.

Note to paragraph (y): When applying for a Federal Communication Commission (FCC) license for these communications facilities, you may submit the application directly to the FCC when sufficient technical information is available to meet the rules of that agency. The holding of the appropriate FCC licenses is a condition on a deepwater port license.

(z) *National Pollutant Discharge Elimination System (NPDES).* To the extent available, the information prescribed by, and submitted on, the NPDES Application for Permit to Discharge, Short Form D, for applying for a discharge permit from the Environmental Protection Agency (EPA). If complete information is not available by the time the Secretary of Transportation must either approve or deny the application for a designated application area under 33 U.S.C. 1504(i)(1), the license for the deepwater port is conditioned upon the applicant receiving the required discharge permit from the EPA before the start of any discharge requiring such a permit.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information prescribed on the application for a Department of Army permit for placement of structures and the discharge of dredged or fill material.

(bb) *Additional Federal authorizations.* All other applications for Federal authorizations not listed elsewhere in this subpart that are required for ownership, construction, and operation of a deepwater port.

(cc) *A statement that the information in the application is true.* This statement must be placed at the end of the application, sworn to before a notary public, and signed by a responsible official of the applicant.

§ 148.107 What additional information may be required?

(a) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, may require the applicant or the applicant's affiliates to file, as a supplement to the application, any analysis, explanation, or detailing of information in the application or any other information the Commandant (G–M) deems necessary.

(b) The applicant must identify the locations where the applicant and its affiliates have filed documents relating to deepwater ports that were prepared within 4 years of the date of the application for a license and that fall under one or more of the following categories:

(1) Prepared by or for, or submitted to, a Board of Directors or an executive, management, or planning committee.

(2) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(3) Concern existing, proposed, or anticipated rates or joint rates.

(4) Determined by the Commandant (G–M) to be required to review and process the application.

(c) The application must identify the location of documents under paragraph (a) of this section. The Commandant (G–M) may require the documents to be consolidated into one or more locations.

(d) The Commandant (G–M) makes the documents under this section available for copying and inspection under § 148.207. Any claim of privilege or immunity with respect to any document required under this section must comply with § 148.221 and be submitted to the Commandant (G–M).

(e) The Commandant (G–M) may require the applicant or the applicant's affiliates to make available for examination, under oath or for interview, persons having, or believed to have, necessary information. The Commandant (G–M), or its designee, conducts the interviews and examination.

(f) The Commandant (G–M) may set a deadline for receiving the information. If the applicant states that the required information is not yet available but will be at a later date, the Commandant (G–M) may specify a later deadline. If a requirement is not met by a deadline fixed under this paragraph, the Commandant (G–M) may determine whether compliance with the requirement is important to processing the application within the time prescribed by the Act. If the requirement is important to processing the application within the time limit set by the Act, the Secretary of Transportation may either not approve the application or may suspend it indefinitely. The deadline for the Secretary's review under the Act is extended for a period of time equal to the time of the suspension.

§ 148.108 What if a Federal or State agency or other interested party requests additional information?

(a) Any Federal or State agency or other interested person may recommend that the applicant provide information in addition to that required to be in the application.

(b) Recommendations must include a brief statement of why the information is needed.

(c) The Commandant (G–M) must receive the request within 30 days after publication of the notice of application. The request is considered before any final determination is made.

§ 148.110 How do I prepare my application?

(a) Any person may confer with the Commandant (G–M) or the Administrator of the Maritime Administration concerning the preparation of an application.

(b) The applicant may incorporate, by clear and specific reference in the application, the following:

(1) Standard reference material that the applicant relied on and that is readily available to Federal and State agencies.

(2) Current information contained in previous applications or reports that the applicant has submitted to the application staff.

(3) Current information contained in a tariff, report, or other document previously filed for public record with the Surface Transportation Board or the Securities and Exchange Commission, if—

(i) A certified true and complete copy of the document is attached to 5 of the 15 copies of the application required by § 148.115(a);

(ii) The date of filing and the document number or other locator are on the cover of the document; and

(iii) Any verification or certification required for the original filing (other than from auditors or other independent persons) is dated no earlier than 30 days before the date of the application.

§ 148.115 How many copies of the application must I send and where must I send them?

Send copies of the application as follows:

(a) Fifteen copies, plus two copies for each adjacent coastal State, to the Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

(b) One copy to the U.S. Army Corps of Engineers District Office having jurisdiction over the proposed port. For the address, see http://www.usace.army.mil/.

§ 148.125 What are the application fees?

(a) The applicant must submit to the Commandant (G–M) a nonrefundable application fee of $350,000 with each application for a license. If additional information is necessary to make an

application complete, no additional application fee is required.

(b) The costs incurred by the Federal Government in processing an application will be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant will be charged the additional costs. These additional costs must be submitted to the Commandant (G–M) when they are assessed.

(c) Application fees and additional costs assessed under this section must be made payable to the "United States Treasury."

Subpart C—Processing Applications

General

§ 148.200 What is the purpose of this subpart?

This subpart prescribes the requirements for processing an application for a deepwater port license, including the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

§ 148.203 What is the role of MARAD in the processing of applications?

The Commandant (G–M) coordinates the processing of applications with the Maritime Administrator.

§ 148.205 How are documents related to the application maintained?

(a) The Commandant (G–M) maintains the docket for each application.

(b) The docket contains a copy of all documents filed or issued as part of application process.

(c) Recommendations submitted by Federal departments and agencies under 33 U.S.C. 1504(e)(2) are docketed when they are received. Copies of the draft and final environmental impact statements prepared under 33 U.S.C. 1504(f) are docketed when they are sent to the Environmental Protection Agency.

(d) For a document designated as protected from disclosure under 33 U.S.C. 1513(b), the Commandant (G–M)—

(1) Prevents the document from being made available for public inspection;

(2) Prevents the information in the document from being disclosed, unless the Commandant (G–M) states that the disclosure is not inconsistent with 33 U.S.C. 1513(b); and

(3) Keeps a record of all individuals who have a copy of the document.

§ 148.207 How and where can I view docketed documents?

(a) All material in a docket under § 148.205 is available to the public for inspection and copying at Commandant (G–M) at the address under "Commandant (G–M)" in § 148.5, except for—

(1) Contracts under 33 U.S.C. 1504(c)(2)(B) for the construction or operation of a deepwater port; and

(2) Material designated under paragraph (b) of this section as a trade secret or commercial or financial information that is claimed to be privileged or confidential.

(b) A person submitting material that contains either a trade secret or commercial or financial information under paragraph (a)(2) of this section must designate those portions of the material that are privileged or confidential. Section 148.221 contains procedures for objecting to these claims.

§ 148.209 How is the application processed?

The Commandant (G–M) processes each application and publishes the notice of application under 33 U.S.C. 1504(c) in the **Federal Register**. Upon publication of a notice of application, the Commandant (G–M) delivers copies of the application to the following:

(a) To each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. At a minimum, these must include the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Minerals Management Service, the State Historic Preservation Officer, and relevant State environmental and natural resources protection agencies.

(b) To each adjacent coastal State.

§ 148.211 What must I do if I need to change my application?

If, at any time before the Secretary approves or denies an application, the information in it changes or becomes incomplete, the applicant must promptly submit, to Commandant (G–M), 15 copies of the change or the additional information, plus 2 copies for each adjacent coastal State.

§ 148.213 How do I withdraw my application?

The applicant may withdraw its application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G–M) for docketing.

§ 148.215 What if a port has plans for a deep draft channel and harbor?

If a port of a State that will be directly connected by pipeline with a proposed deepwater port has existing plans for a deep draft channel and harbor, a representative of the port may request a determination under 33 U.S.C. 1503(d). The request must be sent, in writing, to Commandant (G–M) within 30 days after the date that the notice of application for the deepwater port is published in the **Federal Register**. The request must meet the following requirements:

(a) Be signed by the highest official of the port submitting the request.

(b) Contain a copy of the existing plans for the construction of a deep draft channel and harbor.

(c) Certify that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor or that the port has pending an application for a permit under 33 U.S.C. 403 for the construction.

(d) Provide any available documentation on—

(1) Initial costs (by phases, if development is staged) for the proposed onshore project, including dredging, ship terminal, and attendant facilities;

(2) Estimated annual operating expenses (by phases, if development is staged), including labor, for 30 years for all elements of the project;

(3) Estimated time of completion of all elements of the project;

(4) Estimated volume of ship traffic and volume and variety of the tonnage;

(5) Potential traffic congestion conditions in the port and the port's capability to control vessel traffic as a result of the proposed dredging project;

(6) Estimated economic benefits of the project, including—

(i) Economic contribution to the local and regional area;

(ii) Induced industrial development;

(iii) Increased employment; and

(iv) Increases in tax revenues; and

(7) Environmental and social impact of the project on elements of the local and regional community.

(e) State whether the port seeks a determination that the port best serves the national interest.

§ 148.217 How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the **Federal Register**. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must—

(1) Be submitted in writing to the Commandant (G–M) within 14 days after the date of publication of the notice of application in the **Federal Register**;

(2) Be signed by the Governor of the State;

(3) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

(4) State why the State believes the risk of damage to its coastal environment is equal to or greater than the risk to a State connected by a pipeline to the proposed deepwater port.

(c) Upon receipt of a request, the Commandant (G–M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within a period of time that will allow the Commandant (G–M) 45 days from receipt of the request to determine the matter.

(d) If, after receiving NOAA's recommendations, the Commandant (G–M) determines that the State should be considered as an adjacent coastal State, the Commandant (G–M) designates it as an adjacent coastal State. If the Commandant (G–M) denies the request, the Commandant (G–M) notifies the Governor of the requesting State of the denial.

§ 148.221 What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G–M).

(b) If the claim concerns a document protected from disclosure under 33 U.S.C. 1513(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be identified the same way as the communication. The identification must be filed with the Commandant (G–M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G–M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues. Any person may submit recommendations to the Commandant (G–M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision or refer the matter to the Commandant (G–M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G–M) determines that compliance with the requirement is material to the processing of the application within the required time. If the Commandant (G–M) determines that the information is material, the Commandant (G–M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in 33 U.S.C. 1503(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

Public Meetings

§ 148.222 When must public meetings be held?

(a) Before a license is issued, at least one public meeting under 33 U.S.C. 1504(g) must be held in each adjacent coastal State.

(b) The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, publishes a notice of public meetings in the **Federal Register** and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy.

(c) Anyone may attend the public meetings and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G–M) for docketing.

(b) The report contains at least—

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces what the report must contain.

Formal Hearings

§ 148.228 What if a formal hearing is necessary?

(a) After all public meetings under § 148.222 are concluded, the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G–M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard holds at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G–M) files a request for assignment of an administrative law judge with the ALJ Docketing Center. The Chief Administrative Law Judge designates an administrative law judge (ALJ) or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Secretary of Transportation in deciding whether to approve or deny a license.

§ 148.230 How is notice of a formal hearing given?

(a) The Commandant (G–M) publishes a notice of the hearing in the **Federal Register** and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the administrative law judge (ALJ) assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 What are the rules for a formal hearing?

(a) The Commandant (G–M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G–M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G–M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G–M) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

§ 148.236 What authority does an administrative law judge have?

When assigned to a formal hearing, an ALJ may—

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Issue rules of procedure for written evidence;

(d) Rule on offers of proof and receive evidence;

(e) Examine witnesses;

(f) Rule on motions of the parties;

(g) Suspend or bar an attorney from representing a person in the proceeding for unsuitable conduct;

(h) Exclude any person for disruptive behavior during the hearing;

(i) Set the hearing schedule;

(j) Certify questions to the Commandant (G–M);

(k) Proceed with a scheduled session of the hearing in the absence of a party who has failed to appear;

(l) Extend or shorten a non-statutorily imposed deadline under this subpart within the 240 day time limit for the completion of public hearings in 33 U.S.C. 1504(g);

(m) Set deadlines not specified in this subpart or the Act; and

(n) Take any other action authorized by or consistent with this subpart, the Act, or 5 U.S.C. 551–559.

§ 148.238 Who are the parties to a formal hearing?

The parties to a formal hearing are—

(a) The applicant;

(b) The Commandant (G–M); and

(c) Any person intervening in the proceedings.

§ 148.240 How does a State or a person intervene in a formal hearing?

(a) Any person or adjacent coastal State may intervene in a formal hearing.

(b) A person must file a petition of intervention within ten days after notice of the formal hearing is issued. The petition must—

(1) Be addressed to the ALJ Docketing Center;

(2) Identify the issues and the petitioner's interest in those issues; and

(3) Designate the name and address of a person who can be served if the petition is granted.

(c) An adjacent coastal State need only file a notice of intervention with the ALJ Docketing Center.

(d) The ALJ has the authority to limit the scope and period of intervention during the proceeding.

(e) If the ALJ denies a petition of intervention, the petitioner may file a notice of appeal with the ALJ Docketing Center within 7 days of the denial. A brief may be submitted with the notice of appeal. Parties who wish to file a brief in support of or against the notice of appeal may do so within 7 days of the filing of the notice.

(f) The Commandant (G–M) will rule on the appeal. The ALJ does not have to delay the proceedings for intervention appeals.

§ 148.242 How does a person who is not a party to a formal hearing present evidence at the hearing?

(a) For a person who is not a party to a formal hearing to present evidence at the hearing, the person must send a petition to present evidence to the ALJ Docketing Center before the beginning of the formal hearing. The petition must describe the evidence that the person will present and show its relevance to the issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling will specify which evidence is approved to be presented at the hearing.

§ 148.244 Who must represent the parties at a formal hearing?

(a) All organizations that are parties to the proceeding must be represented by an attorney. Individuals may represent themselves.

(b) Any attorney representing a party to the proceeding must file a notice of appearance according to § 20.301(b) of this chapter.

(c) Each attorney must be in good standing and licensed to practice before a court of the United States or the highest court of any State, territory, or possession of the United States.

§ 148.246 When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201–4022.

§ 148.248 What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in §§ 20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

§ 148.250 Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon—

(a) All other parties; and

(b) The Commandant (G–M).

§ 148.252 What is the procedure for having a subpoena served?

(a) A party submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by § 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in *http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc,* must be submitted with the request. If you don't use this form, the proposed subpoena must contain—

(1) The docket number of the proceedings;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in § 20.309(d) of this chapter and paragraph (f) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF–1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G–M) reviews this decision.

§ 148.254 How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards the record, including the transcript, to the clerk for docketing.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G–M).

Approval or Denial of the Application

§ 148.276 When must the application be approved or denied?

Within 90 days after the close of the last public meeting or formal hearing, the Secretary of Transportation either approves or denies the application.

§ 148.277 How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered by the Secretary of Transportation, the Commandant (G–M), and the Administrator of the Maritime Administration, comments from Federal agencies and adjacent coastal States must reach the Commandant (G–M), at the latest, within 45 days after the completion of the last of the public meetings and formal hearings on an application.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 What are the criteria and considerations for approval of an application?

(a) The Secretary of Transportation approves an application if the Secretary determines that—

(1) The applicant is financially responsible and will carry insurance, or give other evidence of financial responsibility to meet its limit of liability established under subpart G of this part for removal costs and damages that could result from a discharge of oil from the deepwater port or a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be—

(i) In the national interest;

(ii) Consistent with national security;

(iii) Consistent with other national policy goals and objectives, including energy sufficiency and environmental quality; and

(iv) Consistent with the Act, this subchapter, and other applicable laws, including those listed in appendix A to this part;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) The applicant has demonstrated that the deepwater port will be constructed and operated according to the environmental review criteria in appendix A to this part and will use the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) Any State connected to the deepwater port by pipeline—

(i) Is receiving a planning grant under section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454); or

(ii) Has developed, or is developing, an approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1465). This program must include the area that will be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port.

(b) After making the determinations under paragraph (a) of this section, the Secretary considers the following:

(1) The information in the application and any other applications for licenses submitted under 33 U.S.C. 1504(d)(3) for the same application area.

(2) The information from the public meetings and formal hearings held under this part.

(3) The final environmental impact statement for the application area concerned.

(4) The views on the adequacy of the application and its effects on programs within their respective jurisdictions by the Secretaries of the Army, State, and Defense.

(5) The comments of the Maritime Administration and other Federal departments and agencies that have a specific duty under the Act or expertise concerning, or jurisdiction over, any aspect of the ownership, construction, or operation of a deepwater port.

(6) The comments from the adjacent coastal States.

§ 148.281 What happens when more than one application is submitted for the same application area?

(a) When more than one application is submitted for the same application area under 33 U.S.C. 1504(d), the Secretary of Transportation approves only one application. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State.

(2) A person—

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil.

(3) Any other applicant.

(b) The Secretary of Transportation may also approve one of the proposed deepwater ports if the Secretary determines that that port will best serve the national interest. In making this

determination, the Secretary considers—

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in appendix A to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

§ 148.283 When is the application process stopped before the application is approved or denied?

The Commandant (G–M), in coordination with the Administrator of the Maritime Administration, stops the application process before the application is approved or denied if—

(a) All applications are withdrawn before the Secretary of Transportation approves one of them; or

(b) There is only one application, it is incomplete, and the applicant does not respond to a request by the Commandant (G–M) for further information.

Subpart D-Licenses

§ 148.300 What does this subpart concern?

This subpart concerns the license for a deepwater port and the procedures for transferring, amending, suspending, reinstating, revoking, and enforcing a license.

§ 148.305 What is included in a deepwater port license?

A deepwater port license contains the following:

(a) The name, and the number or other identification, of the port.

(b) The name of the owner and operator of the port.

(c) The conditions prescribed under 33 U.S.C. 1503(e) for ownership, construction, and operation of the deepwater port.

(d) A statement that—

(1) There will be no substantial change from the plans, operational systems, methods, procedures, and safeguards in the license, as approved, without the written approval, in advance, of the Secretary of Transportation; and

(2) The owner will comply with any condition that the Secretary may prescribe under the Act or this subchapter.

§ 148.307 Who may consult with the Commandant G–M and the Administrator of the Maritime Administration on developing the conditions of a license?

Federal agencies, the adjacent coastal States, and the owner of the deepwater port may consult with the Commandant (G–M) or the Administrator of the Maritime Administration on the conditions of the license being developed under 33 U.S.C. 1503(e).

§ 148.310 How long does a license last?

Each license remains in effect indefinitely unless—

(a) It is suspended or revoked by the Secretary of Transportation; or

(b) It is surrendered by the owner.

§ 148.315 How is a license amended, transferred, or reinstated?

(a) The Secretary of Transportation may amend, transfer, or reinstate a license if the Secretary finds that the amendment, transfer, or reinstatement, is consistent with the requirements of the Act and this subchapter.

(b) The owner must submit a request for an amendment, transfer, or reinstatement to the Commandant (G–M).

§ 148.320 How is a license enforced, suspended, or revoked?

The Secretary of Transportation may enforce, suspend, or revoke a license under 33 U.S.C. 1507(c).

Subpart E—Site Evaluation and Pre-Construction Testing

§ 148.400 What does this subpart do?

(a) This subpart prescribes requirements under 33 U.S.C. 1504(b) for the activities that are involved in site evaluation and pre-construction testing at potential locations for deepwater ports and that may—

(1) Adversely affect the environment;

(2) Interfere with authorized uses of the Outer Continental Shelf; or

(3) Pose a threat to human health and welfare.

(b) For the purpose of this subpart, "site evaluation and pre-construction testing" means studies performed at potential deepwater port locations, including—

(1) Preliminary studies to determine the feasibility of a site;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and other equipment; and

(3) Studies done for the preparation of the environmental analysis required under § 148.105(w).

§ 148.405 What are the procedures for notifying the Commandant (G–M) of proposed site evaluation and pre-construction testing?

(a) Any person who wants to conduct site evaluation and pre-construction testing at a potential site for a deepwater port must submit a written notice to the Commandant (G–M) at least 30 days before the beginning of the evaluation or testing. The Commandant (G–M) advises and coordinates with appropriate Federal agencies and the States concerning activities covered by this subpart.

(b) The written notice must include the following:

(1) The names of all parties participating in the site evaluation and pre-construction testing.

(2) The type of activities and the way they will be conducted.

(3) Charts showing where the activities will be conducted and the locations of all offshore structures, including pipelines and cables, in or near the proposed area.

(4) The specific purpose for the activities.

(5) The dates when the activities will begin and end.

(6) The available data on the environmental consequences of the activities.

(7) A preliminary report, based on existing data, of the historic and archeological significance of the area where the proposed activities are to take place. A report of each contact made with any appropriate State liaison officer for historic preservation must be included.

(8) Additional information, if necessary, in individual cases.

(c) For the following activities, the notice need have only the information required in paragraphs (b)(1), (b)(2), and (b)(5) of this section, as well as a general indication of the proposed location and purpose of the activities:

(1) Gravity and magnetometric measurements.

(2) Bottom and sub-bottom acoustic profiling without the use of explosives.

(3) Sediment sampling of a limited nature using either core or grab samplers, if geological profiles indicate no discontinuities that may have archeological significance.

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if the sampling is permitted by another Federal agency.

(5) Meteorological measurements, including the setting of instruments.

(6) Hydrographic and oceanographic measurements, including the setting of instruments.

(7) Small diameter core sampling to determine foundation conditions.

(d) A separate written notice is required for each site.

§ 148.410 What are the conditions for conducting site evaluation and pre-construction testing?

(a) No persons may conduct site evaluation and pre-construction testing unless they comply with this subpart and other applicable laws.

(b) Measures must be taken to prevent or minimize the effect of activities under § 148.400(a).

§ 148.415 When conducting site evaluation and pre-construction testing, what must be reported?

(a) When conducting site evaluation or pre-construction testing, the following must be immediately reported by any means to the Commandant (G–M):

(1) Any evidence of objects of cultural, historical, or archeological significance.

(2) Any adverse effect on the environment.

(3) Any interference with authorized uses of the Outer Continental Shelf.

(4) Any threat to human health and welfare.

(5) Any adverse effect on an object of cultural, historical, or archeological significance.

(b) Within 120 days after the site evaluation or pre-construction testing, a final written report must be submitted to the Commandant (G–M) that contains—

(1) A narrative description of the activities performed;

(2) A chart, map, or plat of the area where the activities occurred;

(3) The dates that the activities were performed;

(4) Information on the adverse effects of items reported under paragraph (a) of this section;

(5) Data on the historical or archeological significance of the area where the activities were conducted, including a report by an underwater archeologist, if the physical data indicate the need for such an expert; and

(6) Any additional information required by the Commandant (G–M) on a case-by-case basis.

§ 148.420 When may the Commandant (G–M) suspend or prohibit site evaluation or pre-construction testing?

(a) The Commandant (G–M) may order, either in writing or orally with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing, when the activity threatens harm to—

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (G–M) consults with the applicant on measures to remove the cause for suspension.

(c) The Commandant (G–M) may lift a suspension after the applicant assures the Commandant (G–M) that the activity will no longer cause the threat on which the suspension was based.

Subpart F—Exemption from Requirements in this Subchapter

§ 148.500 What does this subpart do?

This subpart provides procedures for requesting an exemption from a requirement in this subchapter.

§ 148.505 How do I apply for an exemption?

(a) Any person required to comply with a requirement in this subchapter may submit a petition for exemption from that requirement.

(b) The petition must be submitted in writing to the Commandant (G–M).

(c) The Commandant (G–M) may require the petition to provide an alternative to the requirement.

§ 148.510 What happens when a petition for exemption involves the interests of an adjacent coastal State?

If the petition for exemption concerns an adjacent coastal State, the Commandant (G–M) forwards the petition to the Governor of the State for the Governor's recommendation.

§ 148.515 When is an exemption allowed?

The Commandant (G–M) allows an exemption if the Commandant (G–M) determines that—

(a) Compliance with the requirement would be contrary to public interest;

(b) Compliance with the requirement would not enhance safety or the health of the environment;

(c) Compliance with the requirement is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(d) National defense or national economy justify a departure from the rules; or

(e) The alternative, if any, proposed in the petition would—

(1) Ensure comparable or greater safety, protection of the environment, and quality of construction, maintenance, and operation of the deepwater port; and

(2) Be consistent with recognized principles of international law.

Subpart G—Limit of Liability

§ 148.600 What is the purpose of this subpart?

This subpart concerns the establishment of the limit of liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) for deepwater ports.

§ 148.605 How is the limit of liability determined?

(a) The Secretary of Transportation establishes the limit of liability for deepwater ports according to 33 U.S.C. 2704(d)(2).

(b) Requests to adjust the limit of liability for a deepwater port must be submitted to Commandant (G–M). Adjustments are established by a rulemaking based on the request of the applicant. This may be done concurrently with the processing of the deepwater port license application.

§ 148.610 What is the limit of liability for LOOP?

The limit of liability for the Louisiana Offshore Oil Port (LOOP) is $62,000,000.

Appendix A to Part 148—Environmental Review Criteria for Deepwater Ports

Authority

(a) Under section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505), the Commandant is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard consulted with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Maritime Administration, and other Federal agencies having jurisdiction over any aspect of the construction or operation of a deepwater port. Both the construction and operation phases of a deepwater port will be evaluated by the following criteria:

(1) The effect on the marine environment.

(2) The effect on oceanographic currents and wave patterns.

(3) The effect on alternate uses (e.g., scientific study, fishing, and exploitation of other living and nonliving resources) of the oceans and navigable waters.

(4) The potential dangers to a deepwater port from waves, winds, weather, and geological conditions and the steps that can be taken to protect against or minimize these dangers.

(5) The potential for risks to the marine and terrestrial environments under normal operating scenarios and a range of spill or failure scenarios.

(6) The effects of land-based developments related to deepwater port development.

(7) The effect on human health and welfare.

(8) Other considerations deemed necessary by the Commandant (G–M).

(b) The Commandant (G–M) periodically reviews and revises, as necessary, these

criteria. These reviews and revisions are performed in the same way as the originally developed criteria. The criteria established are consistent with the National Environmental Policy Act (42 U.S.C. 4321–4347) and were developed concurrently with the regulations under 33 U.S.C. 1504(a) for deepwater ports.

Purpose

(a) The Secretary of Transportation may issue a license to construct a deepwater port under the Act if, among other things, the Secretary determines—

(1) That the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and protection from the threat of terrorist attack and other subversive activity against persons and property on the port and the vessels and crews calling at the port.

(2) That, under the environmental review criteria in this appendix, the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology to prevent or minimize adverse impact on the environment (33 U.S.C. 1503(c)(3) and 1504).

(b) Under 33 U.S.C. 1504(f), these criteria must be considered in the preparation of a single, detailed environmental impact statement for all timely applications covering a single application area. Additionally, 33 U.S.C. 1504(i)(3) specifies that, if more than one application is submitted for an "application area" (as defined in 33 U.S.C. 1504(d)(2)), the criteria must be used, among other factors, in determining whether any one proposed deepwater port clearly best serves the national interest.

Environmental Review Criteria

(a) The environmental review of a proposed deepwater port consists of the following two parts:

(1) The assessment of the probable negative and positive environmental impacts that will result from construction and operation of the port. (See "Part I of Environmental Review: Environmental Impacts in this appendix.) This is also discussed in the Council on Environmental Quality's regulations at 40 CFR parts 1500 through 1508.

(2) The effort made by the applicant to prevent or minimize adverse environmental effects. (See "Part II of Environmental Review: Environmental Mitigation" in this appendix.) This effort will be closely considered in the review.

(b) The overall intent of the review is to obtain a comprehensive evaluation of the significance of both the separate and cumulative environmental impacts, adverse and beneficial, of the proposed deepwater port project. In addition, the overall intent of the review is to determine whether or not the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, thereby preventing or minimizing the adverse impact on the marine environment.

Part I of Environmental Review: Environmental Impacts

(a) The proposed deepwater port will be evaluated to assess the extent and importance of its probable negative and positive environmental impacts. The information needed for this evaluation will be provided by the Federal Environmental Impact Statement and other necessary sources. This review will include comparisons with reasonable alternative actions, such as the no-action case, alternative schemes for transporting oil, alternative sites, designs, and systems, and other deepwater ports.

(b) The evaluation should provide a clear picture of the relative net environmental impact of the proposed project. It should identify the procedures that might be taken and the technology applied to prevent or minimize probable adverse effects.

Part II of Environmental Review: Environmental Mitigation

Under this part, the proposed project will be appraised for the effort made to prevent or minimize the probable adverse impacts on the environment. This appraisal is primarily concerned with the project as it is proposed. The alternatives are relevant only insofar as they may represent an array of possible actions that the proposal will be judged against. The review will consider the degree of adherence to the following guidelines:

(a) *Siting.*

(1) A proposed deepwater port should be sited in an optimum location to prevent or minimize detrimental environmental effects. For example, the deepwater port and all its components (including receiving terminals, inline transportation facilities and stations, ancillary and service facilities, and pipelines) should occupy the minimum space necessary for safe and efficient operation and should be located, to the extent possible, in areas where permanent alteration of wetlands is not necessary. Buffer zones should be provided to separate onshore facilities from incompatible adjacent land uses.

(2) The deepwater port facility and its offshore components should be located in areas that have stable sea-bottom characteristics; and its onshore components should be located in areas where a stable foundation can be developed and flood protection levees, if appropriate, can be constructed.

(3) The deepwater port facility should be located in an area where existing offshore structures and activities will not interfere with its safe operation, and where the facility or navigation to and from that facility, will not interfere with the safe operation of existing offshore structures. Water depths and currents in and around the deepwater port and its approaches should pose no undue hazard to safe navigation. Extensive dredging or removal of natural obstacles, such as reefs, should be avoided. The siting procedure should select an area where projected weather, wave conditions, and seismic activity minimize the probability that damage will occur to the deepwater port, tankers, pipeline, and component shore-side facilities from storms, earthquakes, or other natural hazards.

(4) Sites should maximize the permitted use of existing work areas and facilities and access routes for construction and operations activities. Where temporary work areas, facilities, or access routes must be used, they should be, to the fullest extent possible, designed and constructed in such a manner as to permit restoration to the pre-construction environmental conditions or better.

(5) The deepwater port facility, navigational fairways, and pipelines should be sited where the interactions of requirements of the facility and the natural environment are optimized to prevent adverse impacts or to produce acceptably low adverse effects. Key factors in assessments should include, but are not be limited to, projected winds, waves, current, spill size, spill frequency, and cleanup capability; shoreline, estuarine, and bay sensitivity; biological resources, damage potential and recovery rate; facility design; and project economics.

(6) The deepwater port, pipelines, and attendant facilities should be located as far as practicable from the vicinity of critical habitats for biota, including, but not limited to, commercial and sports fisheries and threatened and endangered species.

(7) Sites should reflect negligible displacement of existing or potentially important uses, such as the following:

(i) Fisheries.

(ii) Recreation.

(iii) Mining.

(iv) Oil and gas production.

(v) Transportation.

(8) Siting should favor areas already allocated for similar use and the implications of density of these uses.

(i) Port facilities—existing tanker and barge traffic—existing ports, which can be used for service vessels.

(ii) Pipelines—use of existing corridors.

(iii) Secondary facilities—use of (or expansion of) existing storage, refinery, and other support facilities.

(iv) Construction facilities—use of existing equipment and personnel staging yards.

(9) The deepwater port, pipelines, and other offshore facilities should be sited so that they will not permanently interfere with the natural littoral process and will not significantly alter any tidal pass or other part of the physical environment that is important to natural currents and wave patterns.

(10) Pipelines, or other deepwater port components or facilities requiring dredging, should not be located where sediments with high levels of heavy metals, biocides, oil, or other pollutants or hazardous materials exist.

(b) *Design, construction, and operation.* Selection of design and procedures for construction and operation of a deepwater port must reflect the use of the best available technology. The following are some examples:

(1) All oil transfer, transportation, and storage facilities and their systems and equipment should include appropriate safeguards and backup systems or should be operated under procedures both to minimize the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities, and casualties, such as tanker collisions or groundings, and to minimize the adverse effects of those

pollution incidents that do occur. These facilities, systems, and equipment should be designed to permit safe operation, including appropriate safety margins, under maximum operating loads and the most adverse operating conditions.

(2) All facilities should be provided with a safe, environmentally sound method for the collection, storage, and disposal of solid and liquid wastes generated by these facilities. When prescribed by law or regulation, the deepwater port may be required to be fitted with additional facilities for the collection and treatment of ship-generated liquid and solid wastes, such as oily bilge and oily ballast water, tank cleaning residues, sludge wastes, and sewage and garbage.

(3) The proposed project should be designed, constructed and operated so it will not permanently interfere with natural littoral processes or other significant aspects of currents and wave patterns. Additionally, harmful erosion or accretion, both onshore and offshore, should be prevented. Groundwater drawdown or saltwater intrusion should not be permitted. Moreover, the mixing of salt, brackish, and fresh waters should be minimized. Designs should not include factors that will disrupt natural sheet flow, water flow, and drainage patterns or systems.

(4) The proposed project should not interfere with biotic populations. Potential effects on breeding habitats or migration routes should receive particular attention.

(5) The proposed project should be designed, constructed, and operated to make maximum, feasible use of already existing local facilities, such as roads, pipelines, docking facilities and communications facilities.

(6) Disposal of spoil and refuse material should be effected only at disposal sites specifically selected and approved by competent authorities. Whenever and wherever possible, the proposal should provide for resource recovery, reclamation of affected areas, or enhancing uses of spoil and waste.

(7) Personnel trained in oil spill prevention should be present at critical points at the deepwater port (as identified in the accident analysis). Personnel should also be trained in oil spill control to mitigate the effects of any spill that may occur.

(c) *Land Use and Coastal Zone Management.* A deepwater port should not conflict with existing or planned land use, including management of the coastal region. A measure of whether or not conflict exists will be made by the following means:

(1) The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects are likely to occur. A minimum of special exceptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.

(2) The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal States.

(3) The proposed use of floodplains should not—

(i) Entail loss of wetlands;

(ii) Pose an undue risk of exposure of that use to flood damage;

(iii) Increase the potential need for Federal expenditures for flood protection or flood disaster relief; and

(iv) Decrease the unique public value of the floodplain as an environmental resource or provide an incentive for other uses of the floodplains that have similar ultimate results.

(4) The use of or effect on wetlands should be considered in the following manner:

(i) Uses that would permanently alter or adversely affect wetlands should be avoided; or

(ii) Positive action must be taken to minimize adverse effects on wetlands.

Environmental Statutes

(a) In constructing and operating a deepwater port, the port must comply with all applicable environmental statutes, including the National Environmental Policy Act 42 U.S.C. 4321 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 *et seq.*), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 661 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liabilities Act.

(b) In addition, the port must comply with section 5 of the Deepwater Port Act of 1974 on preparation of a single, detailed environmental impact statement (33 U.S.C. 1504(f)) and section 6 on the effect of the port on the marine environment (33 U.S.C. 1505(a)).

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

Subpart A—General

Sec.

Subpart B—Pollution Prevention Equipment

Subpart C—Lifesaving Equipment

Subpart D—Fire-Fighting and Fire-Protection Equipment

Subpart E—Aids to Navigation

General

Lights

Lights on Platforms

Lights on Single Point Moorings

Lights on Floating Hose Strings

Authority: 33 U.S.C. 1504; 49 CFR 1.46.

Subpart A—General

§ 149.1 What does this part do?

This subpart provides requirements for the design and construction of deepwater ports. It also provides the requirements for equipment for deepwater ports.

§ 149.5 Where can I find the definition of a term used in this part?

(a) See § 148.5 for the definition of certain terms used in this part.

(b) See § 140.25 of this chapter for the definition of the following terms: "accommodation module," "major conversion," "sleeping spaces," and "temporary accommodation module."

§ 149.10 What is the Coast Guard publication for equipment type approval, and where can I obtain it?

(a) Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G–M). A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202–512–1800.

(b) Specifications for certain items required to be of an approved type are in 46 CFR parts 160 through 164.

Subpart B—Pollution Prevention Equipment

§ 149.100 What does this subpart do?

This subpart provides requirements for pollution equipment on deepwater ports.

§ 149.103 What are the requirements for discharge containment and removal material and equipment?

(a) Each deepwater port must have oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons. The material and equipment must be stored on the pumping platform or on a service craft operating at the deepwater port.

(b) Each deepwater port must have readily accessible additional containment and removal material and equipment for containing and removing oil discharges larger than those specified in paragraph (a) of this section. For purposes of this paragraph, access may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that best meets the requirements of paragraphs (a) and (b) of this section must be determined on the basis of—

(1) The oil handling rates of the deepwater port;

(2) The volume of oil susceptible to being spilled;

(3) The frequency of oil transfer operations at the deepwater port;

(4) The prevailing wind and sea state condition at the deepwater port;

(5) The age, capability, and arrangement of, and the licensee's experience with, the oil transfer system equipment at the deepwater port; and

(6) The expected availability and frequency of use of the discharge containment material and equipment and whether they are shared.

§ 149.105 What are the requirements for the overflow and relief valves?

(a) Each oil transfer system (OTS) must include a relief valve that, when activated, prevents pressure on any component of the OTS from exceeding its maximum rated pressure.

(b) The oil transfer system overflow or relief valve must not allow an oil discharge into the sea.

§ 149.110 What are the requirements for pipeline end manifold shutoff valves?

Each pipeline end manifold must have a shutoff valve capable of operating both manually and from the pumping platform complex.

§ 149.115 What are the requirements for blank flange and shutoff valves?

Each floating hose string must have a blank flange and a shutoff valve at the vessel's manifold end.

§ 149.120 What are the requirements for manually operated shutoff valves?

Each oil transfer line passing through an SPM buoy must have a manual shutoff valve on the buoy.

§ 149.125 What are the requirements for the malfunction detection system?

Each oil system between a pumping platform complex and the shore must have a system that can detect and locate all leaks and other malfunctions.

§ 149.130 What are the requirements for the oil transfer system alarm?

(a) Each oil transfer system must have an alarm to signal a malfunction or failure in the system.

(b) The alarm must be—

(1) Capable of being activated at the pumping platform complex;

(2) A signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) A high intensity flashing light in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter; and

(c) Distinguishable from the general alarm.

§ 149.135 What should be marked on the oil transfer system alarm switch?

Each switch for activating an alarm, and each audio or visual device for signaling an alarm, under § 149.130 must be identified by the words "OIL TRANSFER ALARM" in red letters at least 1-inch (2.5 centimeters) high on a yellow background.

§ 149.140 What communications equipment must be on a deepwater port?

Each deepwater port must have the following communications equipment:

(a) A means of continuous two-way voice communication among the deepwater port and the tankers, support vessels, and other vessels operating at the port. The means must be usable and effective in all phases of a transfer and in all conditions of weather at the port.

(b) A means to effectively indicate the need to use the communication system required by paragraph (a) of this section, even if the means is the communication system itself.

(c) For each portable means of communication used to meet the requirements of this section, equipment that is—

(1) Certified under 46 CFR 111.105–11 to be operated in Group D, Class 1, Division 1 Atmosphere; and

(2) Permanently marked with the certification required in paragraph (c)(1) of this section. As an alternative to this marking requirement, a document certifying that the portable radio devices in use are in compliance with this section may be kept at the deepwater port.

§ 149.145 What are the requirements for curbs, gutters, drains, and reservoirs?

Each pumping platform complex must have enough curbs, gutters, drains, and reservoirs to collect, in the reservoirs, all oil and contaminants not authorized for discharge into the ocean according to the port's National Pollution Discharge Elimination System (NPDES) permit.

§ 149.150 What are the requirements for the receipt of oil residues from vessels?

(a) Each deepwater port that receives oil from vessels must have a means for receiving oil residues from those vessels.

(b) A deepwater port is not required to receive oil residues from vessels that are engaged in a vessel-to-vessel transfer.

Subpart C—Lifesaving Equipment

§ 149.300 What does this subpart do?

This subpart provides requirements for lifesaving equipment on deepwater ports.

§ 149.305 What are the requirements for lifesaving equipment?

(a) Each deepwater port on which at least one person occupies an accommodation space for more than 30 consecutive days in any successive 12-month period must comply with the requirements for lifesaving equipment in §§ 143.810 through 143.885 of this chapter.

Note: Sections 143.810 through 143.885 referred to in this paragraph are as proposed in 64 FR 68476–68480, December 7, 1999.

(b) Each deepwater port not under paragraph (a) of this section must comply with the requirements for lifesaving equipment in §§ 143.910 through 143.925 of this chapter.

Note: Sections 143.910 through 143.925 referred to in this paragraph are as proposed in 64 FR 68480, December 7, 1999.

§ 149.310 What are the requirements for lifesaving equipment that is not required by this subchapter?

Each item of lifesaving equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart D—Fire-Fighting and Fire-Protection Equipment

§ 149.400 What does this subpart apply to?

This subpart applies to all deepwater ports; except that, for deepwater ports in existence on [the effective date of the final rule], this subpart applies on [date 2 years after effective date of the final rule].

§ 149.405 What are the general requirements for fire-fighting and fire-protection equipment?

(a) Each deepwater port must comply with the requirements for fire-fighting and fire-protection equipment in §§ 143.1010 through 143.1050 and 143.1060 through 143.1063 of this chapter.

Note: Sections 143.1010 through 143.1050 and 143.1060 through 143.1063 referred to in this paragraph are as proposed in 64 FR 68481–68485, December 7, 1999.

(b) A fire detection and alarm system on a deepwater port on [the effective date of the final rule.] need not meet the requirements in § 143.1050 of this chapter until the system needs replacing.

Note: Section 143.1050 referred to in this paragraph is as proposed in 64 FR 68484, December 7, 1999.

§ 149.410 What are the requirements for a fixed fire main system?

Each pumping platform complex must have a fixed fire main system.

§ 149.415 What are the requirements for fire pumps?

(a) Each pumping platform complex must have at least two independently driven fire pumps. Each pump must be able to simultaneously deliver two streams of water at a pitot tube pressure of at least 75 p.s.i. measured at each fire hose nozzle.

(b) Each fire pump must have—

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement in paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own sea connection.

(c) Fire pumps may only be connected to the fire main system.

(d) The fire pumps required by paragraph (a) of this section shall be located in separate spaces and the arrangement of pumps, sea connections and sources of power shall be such as to ensure that a fire in any one space will not put all of the fire pumps out of service.

§ 149.420 What are the requirements for fire hydrants?

(a) Except for machinery spaces, each part of the pumping platform complex that is accessible to a person must have enough fire hydrants so that it can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(b) Each pumping platform complex must have enough fire hydrants so that each machinery space can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(c) A single length of fire hose, with an attached nozzle, must be connected to each fire hydrant at all times. If the hose is exposed to freezing weather, it may be removed from the location during freezing weather.

(d) The outlet on each fire hydrant must not point above the horizontal.

(e) Each fire hydrant must have a shutoff valve.

(f) Any equipment that is located in the same space as the fire hydrant must not impede access to the hydrant.

(g) Each fire hydrant must have at least one spanner wrench at the fire hydrant.

§ 149.425 What are the requirements for fire hoses?

(a) At each fire hydrant, there must be a fire hose rack that is—

(1) Prominently marked;

(2) In an exposed location; and

(3) Protected from freezing weather.

(b) Each length of fire hose must be—

(1) 1 ½ or 2½ inches (4 or 6 centimeters) nominal hose size diameter;

(2) 50-feet (15-meters) nominal hose size length; and

(3) Lined commercial fire hose that conforms to UL 19.

(c) Each fire hose coupling must—

(1) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have nine threads per inch for 1½-inch (4-centimeter) hose or seven and a half threads per inch for 2½-inch (6-centimeter) hose.

(d) Each fire hose nozzle must be a combination solid-stream and water-spray fire hose nozzle that is approved under 46 CFR part 162, subpart 162.027. Nozzles approved under that subpart before June 24, 1996, may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI).

(e) A combination solid-stream and waterspray fire hose nozzle approved under 46 CFR part 162, subpart 162.027, before June 24, 1996, must have a low-velocity water spray applicator (also approved under the provisions of that subpart in effect before June 24, 1996 and contained in the 46 CFR parts 156 to 165 volume revised as of October 1, 1995) when installed—

(1) In a machinery space containing oil fired boilers, internal combustion machinery, or fuel oil units; or

(2) On a helicopter deck.

§ 149.430 What are the requirements for fire-fighting equipment that is not required by this subchapter?

Each item of fire-fighting equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G–M).

Subpart E—Aids to Navigation

General

§ 149.500 What does this subpart do?

This subpart provides requirements for aids to navigation on deepwater ports.

§ 149.505 What are the general requirements for aids to navigation?

The following requirements apply to aids to navigation under this subpart:

(a) Section 66.01–5 of this chapter on application to establish, maintain, discontinue, change, or transfer ownership of an aid, except as under § 149.510.

(b) Section 66.01–25(a) and (c) of this chapter on discontinuing or removing an aid. For the purposes of § 66.01–25(a) and (c) of this chapter, aids to navigation at a deepwater port are considered Class I aids under § 66.01–15 of this chapter.

(c) Section 66.01–50 of this chapter on protection of an aid from interference and obstruction.

(d) Section 66.01–55 of this chapter on transfer of ownership of an aid.

§ 149.510 How do I get permission to establish an aid to navigation?

(a) To establish an aid to navigation on a deepwater port, the licensee must submit an application under § 66.01–5 of this chapter, except the application must be sent to the Commandant (G–M).

(b) At least 180 days before the installation of any structure at the site of a deepwater port, the licensee must submit an application for obstruction lights and other private aids to navigation for the particular construction site.

(c) At least 180 days before beginning oil transfer operations or changing the mooring facilities at the deepwater port, the licensee must submit an application for private aids to navigation.

Lights

§ 149.520 What kind of lights are required?

(a) Lights required by this subpart must be generated by omnidirectional lanterns or rotating beacons.

(b) An omnidirectional lantern must generate a fan beam, where the beam is concentrated in a horizontal plane.

(c) A rotating beacon must generate one or more pencil beams, where each beam is conical, similar to the beam from a flashlight.

(d) Lanterns and beacons must have a way to focus the light or must be certified by the manufacturer as not requiring focusing.

§ 149.521 What is "effective intensity," as used in this subpart?

For the purpose of this subpart, "effective intensity" means the intensity of an intermittent light signal calculated by using the following equation:

$$I_e = \frac{J}{C + \frac{J}{I_o}},$$

where I_e is the effective intensity of the light; I_o is the maximum intensity of the flash; C is a visual time constant taken to be 0.2 seconds for nighttime observation; and J is the integrated intensity of the flash. J is calculated by the following equation:

$$J = \int_{t_1}^{t_2} I(t)\,dt,$$

where t_1 is the starting time and t_2 is the ending time for the light. This equation is valid for both flashed and rotated light signals.

§ 149.523 What are the requirements for flash intervals?

The flash interval (i.e., time difference between the beginning and end of any single flash) from an omnidirectional lantern must not be less than 0.2 seconds. For lights that are pulsed during the flash interval, the pulse frequency must not be less than 100 Hz.

§ 149.525 What are the chromaticity requirements for lights?

The color emitted by a light must be uniform at all angles and in all directions and have chromaticity coordinates lying within the regions defined by the corner coordinates in table 149.525 of this section, when plotted on the CIE Standard Observer Diagram.

TABLE 149.525—CHROMATICITY COORDINATES

Color	Chromaticity coordinates	
	x Axis	y Axis
White	0.285	0.332
	.453	.440
	.500	.440
	.500	.382
	.440	.382
	.285	.264
Green	0.009	0.720
	.284	.520
	.207	.397
	.013	.494
Red	0.665	0.335
	.645	.335
	.680	.300
	.700	.300
Yellow	0.560	0.440
	.555	.435
	.612	.382
	.618	.382

§ 149.527 What are the requirements for vertical divergence of lights?

(a) Each light on a buoy, hose string, or SPM must—

(1) Meet the effective intensity required by this subpart within ±1° from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within

±2° from the focal plane of the light for the arc.

(b) Each light on a platform must—

(1) Meet the effective intensity required by this subpart within ±0.5° from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within ±1° from the focal plane of the light for the arc.

Lights on Platforms

§ 149.530 How many obstruction lights must a platform have, and where must they be located?

(a) A platform that is 30 feet (9 meters) or less on any side, or in diameter, must have at least one obstruction light.

(b) A platform that is more than 30 feet (9 meters) but less than 50 feet (15 meters) on any side, or in diameter, must have at least two obstruction lights located as far apart from each other as possible.

(c) A platform that is more than 50 feet (15 meters) on any side must have at least one obstruction light located on each corner.

(d) A circular platform that has a diameter of more than 50 feet (15 meters) must have at least four obstruction lights located as far apart from each other as possible.

(e) Obstruction lights on platforms must be located at least 20 feet (6 meters) above mean high water.

(f) If a platform has more than one obstruction light, the lights must all be located in the same horizontal plane.

(g) At least one obstruction light on a platform must be visible from the water, regardless of the angle of approach to the structure.

§ 149.531 What are the required characteristics and intensity of obstruction lights on platforms?

(a) Each obstruction light on a platform must—

(1) Display a white light signal; and

(2) Flash 50 to 70 times per minute.

(b) If a platform has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

§ 149.533 What are the requirements for leveling obstruction lights on platforms?

Each obstruction light on a platform must have—

(a) Mounting hardware that allows the light to be leveled horizontally; and

(b) One or more leveling indicators permanently attached to the light, each with an accuracy of ±0.25° or better.

§ 149.535 What are the requirements for rotating beacons on platforms?

In addition to obstruction lights, the tallest platform of a deepwater port must have a rotating lighted beacon that—

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Provides a white light signal;

(d) Operates in wind speeds up to 100 knots at a rotation rate that is within 6 percent of the operating speed displayed on the beacon;

(e) Has one or more leveling indicators permanently attached to the light, each with an accuracy of ±0.25°, or better; and

(f) Is located—

(1) At least 60 feet (18 meters) above mean high water;

(2) Where the structure of the platform, or equipment mounted on the platform, does not obstruct the light in any direction; and

(3) So that it is visible all around the horizon.

Lights on Single Point Moorings

§ 149.540 What are the requirements for obstruction lights on an SPM?

(a) An SPM must have at least one obstruction light.

(b) At least one obstruction light must be visible from the water, regardless of the angle of approach to the SPM.

(c) Obstruction lights on an SPM must be located at least 10 feet (3 meters) above mean high water.

(d) If an SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

§ 149.545 What are the required characteristics and intensity of obstruction lights on an SPM?

(a) Each obstruction light on an SPM must—

(1) Display a white light signal;

(2) Flash 50 to 70 times per minute; and

(3) Have an effective intensity of at least 15 candela.

(b) If an SPM has more than one obstruction light, the lights must flash simultaneously.

Lights on Floating Hose Strings

§ 149.550 What are the requirements for lights on a floating hose string?

(a) A floating hose string must have at least one omnidirectional light, mounted on the hose-end support buoy.

(b) Lights marking the floating hose string must be located at the same height 2 to 5 feet (.6 meters to 1.5 meters) above the surface of the water.

(c) Lights on the hose-end support buoy must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

(d) Additional lights may be installed along the length of the floating hose string. Any additional lights marking the floating hose string must comply with the requirements for lights on the hose-end support buoy.

§ 149.555 What are the required characteristics and intensity of lights on a floating hose string?

Each light marking a floating hose string must—

(a) Display a yellow light signal;

(b) Flash 50 to 70 times per minute; and

(c) Have an effective intensity of at least 10 candela.

Lights on Buoys Used to Define Traffic Lanes

§ 149.560 How must buoys used to define traffic lanes be marked and lighted?

(a) Each buoy that is used to define the lateral boundaries of a traffic lane at a deepwater port must meet § 62.25 of this chapter.

(b) The buoy must have an omnidirectional light located at least 8 feet (2.4 meters) above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

§ 149.565 What are the required characteristics and intensity of lights on buoys used to define traffic lanes?

(a) The color of the light on a buoy that is used to define the lateral boundaries of a traffic lane must correspond with the color schemes for buoys in § 62.25 of this chapter.

(b) The buoy light may be fixed or flashing. If it is flashing, it must flash at intervals of not more than 6 seconds.

(c) Buoy lights must have an effective intensity of at least 25 candela.

Miscellaneous

§ 149.570 How is a platform or SPM identified?

(a) Each platform and SPM must display the name of the deepwater port and the name or number identifying the structure, so that the information is visible—

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are—

(1) At least 12 inches (30 centimeters) high;

(2) In vertical block style; and
(3) Displayed against a contrasting background.

§ 149.575 How must objects protruding from the water, other than platforms and SPM's, be marked?

(a) Each object protruding from the water that is within 100 yards (91 meters) of a platform or SPM must be marked with white reflective tape.
(b) Each object protruding from the water that is more than 100 yards (91 meters) from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

§ 149.580 What are the requirements for a radar beacon?

(a) A radar beacon must be located on the tallest platform of a pumping platform complex.
(b) The beacon must meet the following:
(1) Be an FCC-type-accepted radar beacon (RACON).
(2) Transmit—
(i) In both the 2900–3100 MHz and 9300–9500 MHz frequency bands; or
(ii) If installed before July 8, 1991, in the 9320–9500 MHz frequency band.
(3) Transmit a signal of at least 250 milliwatts radiated power that is omnidirectional and polarized in the horizontal plane.
(4) Transmit a two or more element Morse code character, the length of which does not exceed 25 percent of the radar range expected to be used by vessels operating in the area.
(5) If of the frequency agile type, be programmed so that it will respond at least 40 percent of the time but not more than 90 percent of the time with a response time duration of at least 24 seconds.
(6) Be located at a minimum height of 15 feet (4.5 meters) above the highest deck of the platform and where the structure of the platform, or equipment mounted on the platform, does not obstruct the signal propagation in any direction.

§ 149.585 What are the requirements for fog signals?

(a) Each pumping platform complex must have a fog signal approved under part 67, subpart 67.10, of this chapter that has a 2-mile (3-kilometer) range. A list of Coast Guard approved fog signals is available from any District Commander.
(b) Each fog signal must be—
(1) Located at least 10 feet (3 meters) but not more than 150 feet (46 meters) above mean high water; and
(2) Located where the structure of the platform, or equipment mounted on it, does not obstruct the sound of the signal in any direction.

Subpart F—Design and Equipment

General

§ 149.600 What does this subpart do?

This subpart provides general requirements for equipment and design on deepwater ports.

§ 149.610 What must the District Commander be notified of and when?

The District Commander must be notified of the following:

When—	The District Commander must be notified—
(a) Construction of a pipeline, platform, or SPM is planned	At least 30 days before construction begins.
(b) Construction of a pipeline, platform, or SPM begins	Within 24 hours, from the date construction begins, that the lights and fog signals are in use at the construction site.
(c) A light or fog signal is changed during construction	Within 24 hours of the change.
(d) Lights or fog signals used during construction of a platform, buoy, or SPM are replaced by permanent fixtures to meet the requirements of this part.	Within 24 hours of the replacement.
(e) The first oil transfer operation begins	At least 60 days before the operation.

§ 149.615 What construction drawings and specifications are required?

(a) To show compliance with the Act and this subchapter, the licensee must submit to the Commandant (G–M) three copies of—
(1) Each construction drawing and specification; and
(2) Each revision to a drawing and specification.
(b) Each drawing, specification, and revision under paragraph (a) of this section must bear the seal, or a facsimile imprint of the seal, of the registered professional engineer responsible for the accuracy and adequacy of the material.

§ 149.620 What happens when the Commandant (G–M) reviews and evaluates the construction drawings and specifications?

(a) The Commandant (G–M) reviews and evaluates construction drawings and specifications to ensure compliance with the Act and this subchapter.
(b) Construction may not begin until the drawings and specifications are approved by the Commandant (G–M).
(c) Once construction begins, the Coast Guard periodically inspects the construction site to ensure that the construction complies with the drawings and specifications approved under paragraph (b) of this section.
(d) When construction is complete, the licensee must submit two complete sets of as-built drawings and specifications to the Commandant (G–M).

§ 149.625 What are the design standards?

(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any period of 100 years.

Note to § 149.625(a): "Recommended Procedure for Developing Deepwater Ports Design Criteria" describes a method to prepare the wind, wave, and current criteria for use in determining the forces of the storm described by this paragraph. You may obtain this guide from the Commandant (G–M).

(b) Each port that is contracted for on or after [effective date of final rule.] must be designed according to API RP 2A–WSD (working stress design) or API RP 2A–LRFD (load and resistance factor design) to the extent that they are consistent with this subchapter.
(c) Each electrical installation on a port must be designed, to the extent practicable according to 46 CFR chapter I, subchapter J, (Electrical Equipment).
(d) Each boiler and pressure vessel on a port must be designed according to ASME "Boiler and Pressure Vessel Code," sections I, IV, and VIII, to the extent that they are consistent with this subchapter.
(e) Main oil transfer piping on a port must be designed according to ANSI B 31.4 (Liquid Petroleum Transportation Piping Systems).
(f) Heliports on fixed deepwater ports must be designed according to API RP 2L. Heliports on floating deepwater ports must meet the design requirements for heliports on mobile offshore drilling units in 46 CFR part 108.

Systems Fire Protection

§ 149.630 What do the systems fire protection regulations apply to?

Sections 149.635 through 149.690 apply to the following:

(a) Each deepwater port that—

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.]; or

(2) Underwent a major conversion that began on or after [effective date of final rule.].

(b) When on a deepwater port under paragraph (a)(1) of this section—

(1) Each accommodation module; or

(2) Each temporary accommodation module.

§ 149.640 What are the requirements for systems fire protection?

The pumping platform complex must comply with the requirements for systems fire protection in §§ 143.1115 through 143.1135 of this chapter, except for the requirements on Emergency Evacuation Plans under § 143.1125 of this chapter.

Note: Sections 143.1115 through 143.1135 referred to in this paragraph are as proposed in 64 FR 68488, December 7, 1999.

Single Point Moorings

§ 149.650 What are the requirements for single point moorings and their attached hoses?

(a) Before operating an SPM and its attached hose, the SPM and hose must meet—

(1) ABS Rules for Building and Classing Single Point Moorings; or

(2) If approved by the Commandant (G–M), the standards of another recognized classification society that provide the same or a greater level of safety.

(b) As evidence of compliance with the standards under paragraph (a) of this section, the licensee must obtain—

(1) An Interim Class Certificate or a Classification Certificate issued by the American Bureau of Shipping (ABS); or

(2) A similar certificate issued under paragraph (a)(2) of this section by another recognized classification society.

(c) The SPM and hose must be maintained in class.

Helicopter Fueling Facilities

§ 149.655 What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with the NFPA 407, part 2–5 (fueling on elevated heliports). For the purposes of this section, "ground level" as used in NFPA 407 means below the lowest platform working level.

Emergency Power

§ 149.660 What are the requirements for emergency power?

(a) Each pumping platform complex must have emergency power equipment to provide power to operate simultaneously all of the following for a continuous period of 8 hours:

(1) Emergency lighting circuits.

(2) Aids to navigation equipment.

(3) Communications equipment.

(4) Radar equipment.

(5) Alarm systems.

(6) Electrically operated fire pumps.

(7) Other electrical equipment identified as emergency equipment in the Operations Manual for the deepwater port.

(b) No emergency power generating equipment may be located in any enclosed space on a platform that contains oil transfer pumping equipment or other power generating equipment.

General Alarm System

§ 149.665 What are the requirements for a general alarm system?

Each pumping platform complex must have a general alarm system that meets the following:

(a) Is capable of being activated manually by the use of alarm boxes located according to NFPA 72.

(b) Is audible in all parts of the pumping platform complex , except in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter.

(c) Has a high intensity flashing light in areas where hearing protection is used.

§ 149.670 What are the requirements for marking a general alarm system?

Each of the following must be marked with the words "GENERAL ALARM" in yellow letters at least 1-inch high on a red background:

(a) Each general alarm box.

(b) Each audio or visual device under § 149.665 for signaling the general alarm.

Public Address System

§ 149.675 What are the requirements for the public address system?

Each pumping platform complex must have a public address system operable from two locations on the complex.

Medical Treatment Rooms

§ 149.680 What are the requirements for medical treatment rooms?

Each deepwater port with sleeping spaces for 12 or more persons, including persons in accommodation modules and temporary accommodation modules, must have a medical treatment room that has—

(a) A sign at the entrance designating it as a medical treatment room;

(b) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(c) A single berth or examination table that is accessible from both sides; and

(d) A washbasin located in the room.

§ 149.685 May I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when you use the room for medical purposes, it may not be used as a sleeping space or office.

Miscellaneous

§ 149.690 What are the requirements for means of escape, personnel landings, guardrails, and similar devices and for noise limits?

The deepwater port must comply with §§ 143.1220 through 143.1236 of this chapter on means of escape, personnel landings, guardrails and similar devices, and noise limits.

Note: Sections 143.1220 through 143.1236 referred to in this paragraph are as proposed in 64 FR 68487–68490, December 7, 1999.

§ 149.695 What kind of portable lights may be used on a pumping platform complex?

Each portable light and its supply cord on a pumping platform complex must be designed for the environment where it is used.

PART 150—DEEPWATER PORTS: OPERATIONS

Subpart A—General

Sec.

Authority: 33 U.S.C. 1231, 1321(j)(1)(c), (j)(5), (j)(6) and (m)(2), 33 U.S.C. 1509(a); sec. 2, E.O. 12777, 56 54757; 49 CFR 1.46.

Subpart A—General

§ 150.1 What does this part do?

This part provides requirements for the operation of deepwater ports.

§ 150.5 Where can I find the definition of a term used in this part?

See § 148.5 of this chapter for the definition of certain terms used in this part.

§ 150.10 What are the general requirements for operations manuals?

(a) Each deepwater port must have an operations manual that is approved by the Commandant (G–M) as meeting the requirements of the Act and this subchapter. The original manual is approved as part of the application process in part 148 of this chapter.

(b) The manual must be readily available on the deepwater port for use by personnel.

(c) The licensee must ensure that all personnel follow the procedures in the manual while at the deepwater port.

§ 150.15 What must the operations manual include?

The operations manual required by § 150.10 must identify the deepwater port and include the following:

(a) A description of the geographic location of the deepwater port.

(b) A physical description of the port.

(c) A description of the communication system.

(d) A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.

(e) The hours of operation.

(f) The size, type, number, and simultaneous operations of tankers that the port can handle.

(g) The procedures for the navigation of tankers, including—

(1) The operating limits, maneuvering capability, draft, net under-keel clearance, and dimensions of the tanker;

(2) Any special navigation or communication equipment that may be required for operating in the safety zone;

(3) The measures for routing vessels;

(4) Any mooring equipment needed to make up to the SPM;

(5) The procedures for clearing tankers, support vessels, and other vessels during emergency and routine conditions;

(6) Any special illumination requirements for arrival, discharge, and departure operations;

(7) Any special watchstanding requirements for transiting, mooring, or while at anchor;

(8) The hours when a radio watch is maintained and the frequencies monitored;

(9) The weather limits for tankers; and

(10) The duties, title, qualifications, and training of personnel of the port.

(h) The procedures for transferring cargo, including—

(1) The requirements for oil transfers;

(2) The shipping name of, and Material Safety Data Sheet on, the product transferred;

(3) The duties, title, qualifications, and training of personnel of the port;

(4) Minimum requirements for watch personnel on board the vessel during transfer operations (i.e., personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby);

(5) The start-up and completion of pumping;

(6) Emergency shutdown;

(7) The maximum relief valve settings, the maximum available working pressure and hydraulic shock to the system without relief valves, or both;

(8) Equipment necessary to discharge cargo to the port complex; and

(9) Describe the method to be used to water and de-water the SPM hoses when required.

(i) Unusual arrangements that may be applicable, including—

(1) A list and description of any extraordinary equipment or assistance available to vessels with inadequate pumping capacity, small cargoes, small diameter piping, or inadequate crane capacity; and

(2) A description of special storage or delivery arrangements for unusual cargoes.

(j) Safety and fire protection procedures, including—

(1) Housekeeping and illumination of walking and working areas;

(2) Emergency internal and external notifications;

(3) Quantity, type, location, and use of safety and fire protection equipment;

(4) Personal protection equipment; and

(5) Helicopter landing pad operations.

(k) A port security plan that addresses security issues, including but not be limited to controlling access of personnel and the introduction of goods and material into the deepwater port, monitoring and alerting vessels that approach or enter the port's security zone, identifying risks and procedures for increasing the probability of detecting and deterring terrorist or subversive activity (such as using security lighting and designating restricted areas within the port and remotely alarming them, as appropriate), notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port, designating the Port Security Officer, providing positive and verifiable identification of personnel with access to the port, the training (including drills) required for all personnel regarding security issues, and the scalability of actions and procedures for the various levels of threat.

(l) Procedures for any special operations, including—

(1) Evacuation and re-manning procedures;

(2) Refueling operations;

(3) Diving operations;

(4) Support vessel operations; and

(5) Providing logistical services.

(m) The maintenance procedures, tests, and recordkeeping for—

(1) Oil transfer equipment;

(2) Fire prevention equipment;

(3) Safety equipment; and

(4) Cranes.

(n) Emergency drills, including—

(1) Type;

(2) Frequency; and

(3) Documentation.

(o) A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. The program must provide for the periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application.

§ 150.20 How many copies of the operations manual must I give to the Coast Guard?

The licensee must give the Commandant (G–M) at least five copies of the original operations manual approved when the deepwater port license was issued and five copies of each subsequent amendment to the manual.

§ 150.25 When must I amend the operations manual?

(a) Whenever the Captain of the Port (COTP) finds that the operations manual does not meet the requirements of this part, the COTP notifies the licensee in writing of the inadequacies in the manual.

(b) Within 45 days after the notice under paragraph (a) of this section is sent, the licensee must submit written amendments to eliminate the inadequacies.

(c) The COTP reviews the amendments, makes a determination as the adequacy of the amendments and notifies the licensee of the determination.

(d) If the COTP decides that an amendment is necessary, the amendment goes into effect 60 days after the COTP notifies the licensee of the amendment.

(e) The licensee may petition the Commandant (G–M) to review the decision of the COTP. In this case, the effective date of the amendment is delayed pending the Commandant's decision. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M).

(f) If the COTP finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, the COTP may issue an amendment effective on the date that the licensee receives it. The COTP must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

§ 150.30 How may I propose an amendment to the operations manual?

(a) The licensee may propose an amendment to the operations manual—

(1) By submitting in writing the amendment and reasons for the amendments to the COTP not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the COTP in writing.

(b) The COTP responds to a proposed amendment by notifying the licensee, in writing, before the requested date of the amendment whether the request is approved. If the request is disapproved, the COTP includes the reasons for disapproval in the notice. If the request is for an immediate amendment, the COTP responds as soon as possible.

§ 150.35 How may an adjacent coastal State request an amendment to the operations manual?

(a) An adjacent coastal State connected by pipeline to the deepwater port may petition the COTP to amend the operations manual. The petition must include sufficient information to allow the COTP to reach a decision concerning the proposed amendment.

(b) After the COTP receives a petition, the COTP requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the COTP may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The adjacent coastal State may petition the Commandant (G–M) to review the

decision of the COTP. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G–M) via the District Commander.

§ 150.40 When may I deviate from the operations manual?

If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the COTP explaining why the deviation is necessary and what alternative is proposed. If the COTP determines that the deviation would ensure equivalent or greater protection and safety, the COTP authorizes the deviation and notifies the licensee in writing.

§ 150.45 In an emergency, when may I deviate from this subchapter or the operations manual?

In an emergency, any person may deviate from any requirement in this subchapter or any procedure in the operations manual to ensure the safety of life, property, or the environment. Each deviation must be reported to the COTP at the earliest possible time.

§ 150.50 What are the requirements for an oil spill response plan?

(a) Each deepwater port must have an oil spill response plan that meets part 154, subpart F, of this chapter.

(b) The response plan must be submitted to the COTP in writing not less than 60 days before the deepwater port begins operation.

Subpart B—Inspections

§ 150.100 What are the requirements for inspecting deepwater ports?

Under the direction of the OCMI, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the OCMI deems necessary.

Subpart C—Personnel

§ 150.200 What does this subpart do?

This subpart prescribes qualifications for personnel on deepwater ports.

§ 150.205 Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meets the qualifications for that position in this subpart.

§ 150.210 What are the language requirements for personnel?

Only persons who read, write, and speak English may occupy the following positions:

(a) Port Superintendent.
(b) Cargo Transfer Supervisor.
(c) Cargo Transfer Assistant.
(d) Vessel Traffic Supervisor.
(e) Mooring Master.
(f) Assistant Mooring Master.

§ 150.215 What are the restrictions on serving in more than one position?

No person may serve in more than one of the following positions at any one time:

(a) Port Superintendent.
(b) Cargo Transfer Supervisor.
(c) Cargo Transfer Assistant.
(d) Vessel Traffic Supervisor.
(e) Mooring Master.
(f) Assistant Mooring Master.

§ 150.220 What are the qualifications for a Port Superintendent?

(a) A Port Superintendent must meet the following:

(1) Have enough experience in managing an oil transfer facility to demonstrate the capability of managing a deepwater port;

(2) Know the operational requirements in this part;

(3) Know the hazards of each product handled at the port;

(4) Know the procedures in the operations manual; and

(5) Be designated as Port Superintendent by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.225 What are the qualifications for a Cargo Transfer Supervisor?

(a) A Cargo Transfer Supervisor must meet the following:

(1) Have enough experience in managing cargo transfers at an oil transfer facility to demonstrate the capability of managing cargo transfers at a deepwater port.

(2) Have had at least 1 year of continuous employment as supervisor at an oil transfer facility in charge of offloading tank vessels of 70,000 deadweight tons (DWT) or larger.

(3) Have supervised at least 25 cargo transfer evolutions from tankers of 70,000 DWT or larger or served in a training capacity for cargo transfer supervisor at a deepwater port in the United States for at least 1 year.

(4) Know the requirements for oil transfer operations in subpart E of this part.

(5) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the port.

(6) Know the special handling characteristics of each product transferred at the port.

(7) Know the procedures in the operations manual for—

(i) Oil transfers;

(ii) Spill prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(8) Be designated as Cargo Transfer Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.230 What are the qualifications for a Vessel Traffic Supervisor?

(a) A Vessel Traffic Supervisor must meet the following:

(1) Have worked with radar plotting and analysis of vessel movement for 1 of the previous 5 years or successfully completed a marine radar operators school acceptable to the Commandant (G–M).

(2) Know the procedures for using the port's radar equipment.

(3) Know the procedures in the operations manual for vessel control and voice radio-telecommunications.

(4) Be designated as Vessel Traffic Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.235 What are the qualifications for a Mooring Master?

(a) A Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tons, endorsed as radar observer, and have 1 year of experience as—

(A) A master on tankers of 70,000 DWT or larger and have satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(B) A Mooring Master at any deepwater port servicing tankers of 70,000 DWT or larger;

(ii) Master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tons for at least one port in the area of the deepwater port, and have one year of experience—

(A) Piloting ocean going vessels, including tankers of 70,000 DWT or larger; or

(B) As assistant mooring master at the facility and satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G–M); or

(iii) Master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.

(2) Know the procedures in the operations manual for—

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Mooring Master by the licensee.

(b) The COTP must be notified, in writing, of the designation.

(c) Applicants for Mooring Master must have observed 20 mooring evolutions at a deepwater port.

§ 150.240 What are the qualifications for a Cargo Transfer Assistant?

(a) A Cargo Transfer Assistant must meet the following:

(1) Have 1 year of experience, or must have performed 15 cargo transfer evolutions, at an oil transfer facility servicing tankers of 70,000 DWT or larger. This experience must include connecting and disconnecting tankers to a floating hose string for a single point mooring.

(2) Know the requirements for oil transfer operations in subpart E of this part.

(3) Know the oil transfer procedures and transfer control systems, in general, of tankers serviced at the facility.

(4) Know the special handling characteristics of each product to be transferred.

(5) Know the procedures in the operations manual for—

(i) Oil transfers;

(ii) Spill prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(6) Be designated as Cargo Transfer Assistant by the licensee.

(b) This designation must be kept in writing at the deepwater port.

§ 150.245 What are the qualifications for an Assistant Mooring Master?

(a) An Assistant Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as—

(i) A master of ocean steam or motor vessels of any gross tonnage, endorsed as radar observer, and have 6-months experience as master or chief mate on tankers of 70,000 DWT or larger; or

(ii) A master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tonnage for at least one port in the area of the deepwater port.

(2) Know the procedures in the operations manual for—

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Assistant Mooring Master by the licensee.

(b) The COTP must be notified in writing of the designation.

§ 150.250 What training and instruction are required?

Personnel must receive training and instruction under §§ 143.510 and 143.515 of this chapter. [*Note:* Sections 143.510 and 143.515 referred to in this paragraph are as proposed in 64 FR 68473, December 7, 1999.]

Subpart D—Vessel Navigation

§ 150.300 What does this subpart do?

(a) This subpart prescribes requirements that—

(1) Apply to the navigation of all vessels at or near a deepwater port; and

(2) Describe the activities that vessels may or may not engage in a safety zone under subpart J of this part.

(b) These requirements supplement the International Regulations for Preventing Collisions at Sea (COLREGS).

§ 150.310 When is radar surveillance required?

The Vessel Traffic Supervisor must maintain radar surveillance of the safety zone when—

(a) A tanker is proceeding to the safety zone after submitting the report required in § 150.325;

(b) A tanker or support vessel is underway in the safety zone; or

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.320 What advisories are given to tankers?

The Vessel Traffic Supervisor must advise the master of each tanker underway in the safety zone of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex.

(b) The position and the estimated course and speed, if moving, of all other vessels that may interfere with the movement of the tanker within the safety zone.

§ 150.325 What is the first notice required before a tanker enters the safety zone?

(a) The owner, master, agent, or person in charge of a tanker bound for a deepwater port must report the following information to the Vessel Traffic Supervisor of the port and to the COTP at least 96 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo in the tanker.

(3) The location of the tanker at the time of the report.

(4) Any conditions on the tanker that may impair its navigation, such as fire or malfunctioning propulsion, steering, navigational, or radiotelephone equipment. The testing requirements in § 164.25 of this chapter are applicable to vessels arriving at a deepwater port.

(5) Any leaks, structural damage, or machinery malfunctions that may impair cargo transfer operations or cause a discharge of oil.

(6) The operational condition of the equipment listed under § 164.35 of this chapter on the tanker.

(b) If the estimated time of arrival changes by more than 6 hours from the last reported time, the COTP and Vessel Traffic Supervisor of the port must be notified of the correction as soon as the change is known.

(c) If the information reported in paragraphs (a)(4) or (a)(5) of this section changes at any time before the tanker enters the safety zone at the deepwater port, or while the tanker is in the safety zone, the master of the tanker must report the changes to the COTP and Vessel Traffic Supervisor of the port as soon as possible.

(d) In addition to the requirements in paragraphs (a), (b), and (c) of this section, the notice of arrival requirements in § 160.207 of this chapter are applicable to vessels arriving at a deepwater port.

§ 150.330 What is the second notice required before a tanker enters the safety zone?

When a tanker bound for a deepwater port is 20 miles (32 kilometers) from the entrance to the port's safety zone, the master of the tanker must notify the port's Vessel Traffic Supervisor of the tanker's name and location.

§ 150.340 What are the rules of navigation for tankers in the safety zone?

(a) A tanker must not enter or depart a safety zone except within a designated safety fairway.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area.

(c) A tanker underway in a safety zone must keep at least 5 miles (8 kilometers) behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone in which the net under-keel clearance would be less than 5 feet (1.5 meters).

§ 150.345 How are support vessels cleared to move within the safety zone?

All movements of support vessels within the safety zone must be cleared in advance by the Vessel Traffic Supervisor.

§ 150.350 What are the rules of navigation for support vessels in the safety zone?

A support vessel must not anchor in the safety zone, except—

(a) In an anchorage area; or

(b) For vessel maintenance that is cleared by the Vessel Traffic Supervisor.

§ 150.355 How are other vessels cleared to move within the safety zone?

(a) The Vessel Traffic Supervisor's clearance is required before a vessel, other than a tanker or support vessel, is allowed to enter the safety zone.

(b) The Vessel Traffic Supervisor may clear a vessel under paragraph (a) of this section only if its entry into the safety zone would not—

(1) Interfere with the purpose of the deepwater port;

(2) Endanger the safety of life or property or the environment; or

(3) Otherwise be prohibited by regulation.

§ 150.365 What are the responsibilities of the Vessel Traffic Supervisor?

(a) The Vessel Traffic Supervisor controls the movement of vessels entering, moving within, and departing the safety zone around a deepwater port.

(b) The Vessel Traffic Supervisor must provide information concerning other vessels underway or moored in the safety zone.

(c) If the Vessel Traffic Supervisor determines that a vessel may be in danger with respect to any other vessel in the safety zone or to any part of the deepwater port, the Vessel Traffic Supervisor must attempt to inform the vessel's master by radio or by other means.

§ 150.370 What are the responsibilities of the Mooring Master?

(a) A Mooring Master must be onboard each tanker when it is underway in the safety zone.

(b) The Mooring Master must advise the master of the tanker on operational and ship-control matters that are particular to the specific deepwater port, such as—

(1) The port's navigational aids;

(2) The depth and current characteristics of the maneuvering area;

(3) The mooring equipment and procedures; and

(4) The port's vessel traffic control procedures.

§ 150.375 What are the responsibilities of the Assistant Mooring Master?

When a tanker is mooring at an SPM, an Assistant Mooring Master must be stationed on the forecastle of the tanker to assist the Mooring Master by—

(a) Reporting position approach data relative to the SPM; and

(b) Advising the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

§ 150.380 Under what circumstances may vessels operate within the safety zone?

(a) Table 150.380(a) of this section lists the areas within a safety zone where a vessel may operate and the clearance needed for that location.

TABLE 150.380(A).—REGULATED ACTIVITIES OF VESSELS AT DEEPWATER PORTS

Regulated Activities	Safety Zone		
	Areas to be avoided around each platform pumping complex and SPM[1]	Anchorage areas	Other areas within safety zone
1. Tankers calling at port	C	C	C
2. Support vessel movements	C	C	C
3. Transit by vessels other than tankers or support vessels	N	P	P
4. Mooring to SPM by vessels other than tankers or support vessels	F		
5. Anchoring by vessels other than tankers or support vessels	N	F	N
6. Fishing, including bottom trawl (shrimping)	N	P	P
7. Mobile drilling operations or erection of structures[2]	N	N	N
8. Lightering/transshipment[3]	N	N	N

[1] Areas to be avoided are in subpart J of this part.
[2] Not part of Port Installation.
[3] Exception, 33 CFR 150.440(e).

Key to regulated activities: F—Only in an emergency. N—Not permitted. C—Movement of the vessel is permitted when cleared by the Vessel Traffic Supervisor. P—Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the Vessel Traffic Supervisor. Communication with the Vessel Traffic Supervisor is required. For transiting foreign-flag vessels, the requirement for clearance to enter the safety zone is advisory in nature.

(b) If the activity is not listed in table 150.380(a) of this section or is not otherwise provided for in this subpart, the COTP's permission is required first.

§ 150.385 What is required in an emergency?

In an emergency for the protection of life or property, a vessel may deviate from a vessel movement requirement in this subpart without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the reasons for the deviation at the earliest possible moment.

Subpart E—Oil Transfer Operations

§ 150.400 What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil at a deepwater port.

§ 150.405 How must an Oil Transfer System (OTS) be tested and inspected?

(a) No person may transfer oil through an OTS at a deepwater port unless it has

been inspected and tested according to this section.

(b) The SPM–OTS must be maintained as required by the ABS Rules for Building and Classing Single Point Moorings or by the rules for maintenance of an SPM–OTS of another classification society approved by the Commandant (G–M).

(c) If the manufacturer's maximum pressure rating for any oil transfer hose in the SPM–OTS has been exceeded (unless it was exceeded for testing required by this section), the hose must be—

(1) Removed;

(2) Hydrostatically tested to 1.5 times its maximum working pressure; and

(3) Visually examined externally and internally for evidence of—

(i) Leakage;

(ii) Loose covers;

(iii) Kinks;

(iv) Bulges;

(v) Soft spots; and

(vi) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(d) Each submarine hose used in oil transfer operations in the SPM–OTS must have been removed from its coupling, surfaced, and examined as described in paragraphs (c)(2) and (c)(3) of this section within the preceding 2 years; and

(e) Before resuming oil transfer operations, each submarine hose in the SPM–OTS must be visually examined in place as described in paragraph (c)(3) of this section after oil transfer operations are shut down due to sea conditions at the deepwater port.

§ 150.420 What actions must be taken when oil transfer equipment is defective?

When any piece of equipment involved in oil transfer operations is defective—

(a) The piece of equipment must be replaced or repaired before making any further oil transfers; and

(b) The repaired or replaced piece must meet or exceed its original specifications.

§ 150.425 What are the requirements for transferring oil?

No person may transfer oil through an OTS unless the following occur:

(a) Before connecting the hose string to the vessel manifold at the start of each oil transfer operation, the hose string in use for that transfer operation must be visually examined and found to have no—

(1) Leakage;

(2) Loose covers;

(3) Kinks;

(4) Bulges;

(5) Soft spots; and

(6) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(b) During each oil transfer operation, the hose string in use for that transfer operation must be visually examined for leakage.

(c) The vessel's mooring attachment to the SPM must be strong enough to hold in all expected conditions of surge, current, and weather.

(d) The oil transfer hoses must be long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses.

(e) Each oil transfer hose must be supported in a manner that prevents strain on its coupling.

(f) Each part of the OTS necessary to allow the flow of oil must be lined up for the transfer.

(g) Each part of the OTS not necessary for the transfer operation must be securely blanked or shut off.

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems must be sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS must meet § 150.430.

(j) The discharge containment and removal material and equipment required by the deepwater port's response plan must be in place.

(k) Each scupper and overboard drain on the vessel must be closed.

(l) The drip pan under the vessel manifold must not overflow.

(m) The communications equipment required by § 149.140 of this chapter must be tested and found operational for the transfer operation.

(n) The means of emergency shutdown must be in position and operative.

(o) The Cargo Transfer Supervisor, Cargo Transfer Assistant, and any other required personnel must be on duty and present to conduct the transfer operations according to the operations manual and the oil transfer procedures that apply to the vessel during transfer operations.

(p) The vessel's officer in charge of cargo transfers and the port's Cargo Transfer Assistant must have held a conference and each must understand the following details of the transfer operation:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) The particulars of the transferring and receiving systems.

(6) The critical stages of the transfer operation.

(7) The Federal regulations that apply to the transfer of oil.

(8) The emergency procedures.

(9) The discharge containment procedures.

(10) The discharge reporting procedures.

(11) The watch or shift arrangement.

(12) The transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfers and Cargo Transfer Assistant must agree to begin the transfer operation.

(r) The flame screens must be structurally sound and securely fastened in place in all cargo tank vents and ullage holes on the vessel.

(s) The declaration of inspection required by § 150.435 is completed.

§ 150.430 What are the requirements for connections to vessels?

(a) The licensee must provide adapters that allow connection of the hose string to the vessel manifold. The adapters must meet the design and material standards of any one of the following:

(1) American National Standards Institute (ANSI).

(2) British Standard (BS).

(3) German Standard (DIN).

(4) Japanese Industrial Standard (JIS).

(5) Universal Metric Standard.

(b) Each temporary connection between the hose string and a vessel manifold must meet the following:

(1) Be made using either—

(i) A bolted coupling; or

(ii) A quick-connect coupling acceptable to the Commandant (G–M).

(2) Have suitable materials in joints and couplings to make a tight seal.

(3) If using an ANSI-standard bolted flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts.

(4) If using a bolted flange coupling other than ANSI-standard coupling, have a bolt in each hole of the coupling.

(5) Have bolts in a bolted coupling that are all—

(i) The same size;

(ii) Tightened so they uniformly distribute the load around the coupling; and

(iii) Free of any signs of strain, elongation, or deterioration.

(6) Made and broken under the direct supervision of the Cargo Transfer Assistant.

§ 150.435 What are the requirements for a declaration of inspection?

(a) No person may transfer oil or hazardous materials from a tanker to a

deepwater port unless a declaration of inspection meeting § 156.150(c) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the Cargo Transfer Assistant.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker and the Cargo Transfer Assistant must inspect the deepwater port. They must indicate by initialing each item on the declaration of inspection form that the tanker and deepwater port meet § 156.150 of this chapter.

§ 150.440 When are oil transfers not allowed?

No person may transfer oil at a deepwater port—

(a) When the Port Superintendent is not on duty at the port;

(b) During an electrical storm in the port's vicinity;

(c) During a fire at the port, at the onshore receiving terminal, or aboard a vessel berthed at the port, unless the Port Superintendent determines that an oil transfer should be resumed as a safety measure;

(d) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges as specified in the port's response plan under part 154 of this chapter;

(e) By lighterage, except in bunkering operations, unless otherwise authorized by the COTP; or

(f) When the weather at the port does not meet the minimum operating conditions for oil transfers in the port's operations manual.

§ 150.445 How may the COTP order suspension of oil transfers?

(a) In case of emergency, the COTP may order the suspension of oil transfers at a port to prevent the discharge, or threat of discharge, of oil or to protect the safety of life and property.

(b) An order of suspension may be made effective immediately.

(c) The order of suspension must state the reasons for the suspension.

(d) The licensee may petition the District Commander in writing, or by any means if the suspension is effective immediately, to reconsider the order of suspension. The decision of the District Commander is considered final agency action.

§ 150.447 When is oil in an SPM–OTS displaced with water?

The Port Superintendent must ensure that the oil in an SPM–OTS is displaced with water and that the valve at the pipeline end manifold is closed whenever—

(a) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM–OTS;

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

Subpart F—Operations

§ 150.500 What does this subpart do?

This subpart concerns operations at a deepwater port.

§ 150.505 How must emergency equipment be maintained and repaired?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be maintained and repaired according to §§ 143.610 through 143.645 of this chapter. [*Note:* Sections 143.610 through 143.645 referred to in this paragraph are as proposed in 64 FR 68473–68475, December 7, 1999.]

§ 150.510 How must emergency equipment be tested and inspected?

All lifesaving, fire-fighting, and other emergency equipment at a deepwater port must be tested and inspected according to §§ 143.710 through 143.765 of this chapter. [*Note:* Sections 143.710 through 143.765 referred to in this paragraph are as proposed in 64 FR 68474–68475, December 7, 1999.]

§ 150.515 What may the fire main system be used for?

The fire main system may be used only for fire fighting and for deck washing.

§ 150.520 How many fire pumps must be kept ready for use at all times?

At least one of the fire pumps required by this subchapter must be kept ready for use at all times.

§ 150.525 What are the requirements for connection and stowage of firehoses?

(a) At least one length of firehose with a combination nozzle must be connected to each fire hydrant at all times. If in a location exposed to the weather, the firehose may be removed from the hydrant during freezing weather.

(b) When not in use, firehose connected to a fire hydrant must be stowed on a hose rack.

(c) If the edge of a platform deck is in an exposed location, the hydrant nearest that edge must have enough lengths of firehose connected to it to allow 10 feet (3 meters) of hose, when pressurized, to curve over the edge.

§ 150.530 What are the restrictions on fueling aircraft?

If the deepwater port is not equipped with a permanent fueling facility, the COTP's approval is necessary before aircraft may be fueled at the port.

§ 150.535 What are the requirements for the muster list?

(a) A muster list must be posted on each pumping platform complex.

(b) The muster list must—

(1) List the name and title of each person, in order of succession, who is the person in charge of the pumping platform complex for purposes of supervision during an emergency.

(2) List the special duties and duty stations for each person on the pumping platform complex in the event of an emergency that requires the use of equipment covered by part 149 of this chapter; and

(3) Identify the signals for calling persons to their emergency stations and for abandoning the pumping platform complex.

Subpart G—Workplace Safety and Health

§ 150.600 What are the requirements for workplace safety and health?

The requirements for workplace safety and health in part 142 of this chapter must be complied with on each deepwater port. [*Note:* Part 142 referred to in this paragraph is as proposed in 64 FR 68457–68467, December 7, 1999.]

Subpart H—Aids to Navigation

§ 150.700 What does this subpart do?

This subpart provides requirements for the operation of aids to navigation at a deepwater port.

§ 150.705 What are the requirements for the maintaining and inspecting aids to navigation?

(a) All aids to navigation must be maintained in proper operating condition at all times.

(b) The Coast Guard may inspect all aids to navigation at any time without notice.

§ 150.710 What are the requirements for supplying power to aids to navigation?

The power to all aids to navigation must be maintained, at all times, at or above the level recommended by the equipment's manufacturer.

§ 150.715 What are the requirements for lights used as aids to navigation?

(a) Each light under part 149, subpart E, of this chapter used as an aid to navigation at a deepwater port must be lit continuously from sunset to sunrise.

(b) During construction, a platform or SPM must be marked with at least one of the following:

(1) The obstruction lights required for the structure in part 149, subpart E, of this chapter.

(2) The fixed lights of a vessel attending the structure.

(3) The general illumination lights on the structure, if they meet or exceed the intensity required for obstruction lights required for the structure.

(c) The focal plane of each obstruction light and rotating lighted beacon must always coincide with the horizontal plane that passes through the light source.

§ 150.720 What are the requirements for fog signals?

(a) The fog signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles (8 kilometers).

(b) If, during construction of a platform, the requirements in paragraph (a) of this section can not be met, a 2-second whistle blast made every 20 seconds by a vessel moored at the platform must be used instead of a fog signal.

Subpart I—Reports and Records

§ 150.800 What does this subpart do?

This subpart concerns reports that must be submitted, and records that must be kept, by the licensee.

Reports

§ 150.805 What reports must I send both to a classification society and to the Coast Guard?

A copy of each report submitted to ABS (or other classification society approved by the Coast Guard) for maintenance of an SPM's class under the rules of that society for the building and classing of SPM's must also be submitted the Commandant (G–M).

§ 150.810 How do I report a problem with an aid to navigation?

(a) Any problem affecting the operation or characteristics of an aid to navigation at the deepwater port must be reported, by the fastest means available, to the District Commander. The report must identify—

(1) The aid to navigation affected;

(2) The location of that aid;

(3) The nature of the problem; and

(4) The estimated time of repair.

(b) When the problem is corrected, the District Commander must be notified.

§ 150.815 How do I report a casualty?

(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity , or Coast Guard Group Office of each event on or involving the deepwater port that results in one or more of the following:

(1) Death.

(2) Injury to five or more persons.

(3) Injury to a person requiring hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of a limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of $100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the port, vessel, or aircraft.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The deepwater port involved.

(2) The owner, operator, or person in charge of the port.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under § 150.815, the owner, operator, or person in charge of a deepwater port must submit a written report of the event to the nearest OCMI within 10 days after the notice of casualty. The report may be on Form 2692 (Report of Marine Accident, Injury, or Death) or in narrative form if it contains all of the applicable information requested in Form 2692. Copies of Form 2692 are available from the OCMI.

(b) The written report must also include the information relating to alcohol and drug involvement specified by 46 CFR 4.05–12.

(c) If filed immediately after the event, the written report required by paragraph (a) of this section serves as the notice required under § 150.815.

§ 150.825 How must I report a diving-related casualty?

Diving-related deaths and injuries within the safety zone of a deepwater port must be reported according to 46 CFR 197.484 and 197.486, rather than to §§ 150.815 and 150.820.

§ 150.830 How must I report a pollution incident?

Oil pollution incidents involving a deepwater port are reported according to §§ 135.305 and 135.307 of this chapter.

§ 150.835 How must I report sabotage or a subversive activity?

The owner, operator, or person in charge of a deepwater port must immediately report to the COTP, by the fastest possible means, any evidence of sabotage or subversive activity against any vessel at the deepwater port or against the deepwater port itself.

Records

§ 150.840 What records must I keep?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part.

(b) The copies must be readily available to Coast Guard inspectors.

(c) Except for personnel records under § 150.845, the copies must be kept for 3 years.

§ 150.845 What personnel records must I keep?

The licensee must keep documentation on the designation and qualification under subpart C of this part of the following individuals:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.850 How long must I keep a declaration of inspection form?

The licensee must keep signed copies of the declaration of inspection forms required by § 150.435 for one month from the date of signature.

Subpart J—Safety Zones

§ 150.900 What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Shipping safety fairways associated with deepwater ports are described in part 166 of this chapter.

§ 150.905 Why are safety zones established?

Safety zones under this subchapter are established to promote safety of life and property, marine environmental protection, and navigational safety at deepwater ports and adjacent waters. Safety zones accomplish these objectives by preventing or controlling specific activities, limiting access by vessels or persons, and by protecting the living resources of the sea from harmful agents.

§ 150.910 What installations, structures, or activities are prohibited in a safety zone?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone of a deepwater port.

§ 150.915 How are safety zones established and modified?

(a) A safety zone is developed and designated during the application process for a deepwater port license and may be modified according to this section.

(b) Before a safety zone is established, all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions around the site of the deepwater port, are considered.

(c) The District Commander may modify a safety zone by publishing a notice of proposed rulemaking in the **Federal Register** and providing an opportunity for public comment. After considering the comments, the District Commander may publish a final rule modifying the zone and its regulations.

(d) When there is an imminent threat to the safety of life and property within the zone, the District Commander may modify the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the **Federal Register** and requests public comments. After considering the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 How am I notified of new or proposed safety zones?

In addition to documents published in the **Federal Register** under § 150.915, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 150.925 How long may a safety zone last?

A safety zone and its regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the zone and may remain in effect until the deepwater port is removed.

§ 150.930 What datum is used for the geographic coordinates in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 150.935 What is the safety zone for LOOP?

(a) *Location.* The safety zone for the Louisiana Offshore Oil Port (LOOP) is as follows:

TABLE 150.155(A).—SAFETY ZONE FOR LOOP, GULF OF MEXICO

Latitude N.	Longitude W.
(1) Starting at: 28°55′23″	90°00′37″
(2) A rhumb line to: 28°53′50″	90°04′07″
(3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex: 28°53′06″	90°01′30″
(4) To a point: 28°51′07″	90°03′06″
(5) Then a rhumb line to: 28°50′09″	90°02′24″
(6) Then a rhumb line to: 28°49′05″	89°55′54″
(7) Then a rhumb line to: 28°48′36″	89°55′00″
(8) Then a rhumb line to: 28°52′04″	89°52′42″
(9) Then a rhumb line to: 28°53′10″	89°53′42″
(10) Then a rhumb line to: 28°54′52″	89°57′00″
(11) Then a rhumb line to: 28°54′52″	89°59′36″
(12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex;	
(13) To the point of starting: 28°55′23″	90°00′37″

(b) *Areas to be avoided.* The areas to be avoided within the safety zone are as follows:

(1) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at—

Latitude N.	Longitude W.
28°53′06″	90°–1′30″

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at—

Latitude N.	Longitude W.
28°54′12″	90°00′37″
28°53′16″	89°59′59″
28°52′15″	90°00′19″
28°51′45″	90°01′25″
28°52′08″	90°02′33″
28°53′07″	90°03′02″

(c) *Anchorage area.* The anchorage area within the safety zone is enclosed by the rhumb lines joining points at—

Latitude N.	Longitude W.
28°52′21″	89°57′47″
28°54′05″	89°56′38″
28°52′04″	89°52′42″
28°50′20″	89°53′51″
28°52′21″	89°57′47″

Dated: April 22, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 30, 2002

FEDERAL COMMUNICATIONS COMMISSION

Digital television stations; table of assignments:
- Kansas; published 4-17-02
- Texas; published 4-17-02

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:
- Orthopedic devices—
  - Hip joint metal/polymer constrained cemented or uncemented prosthesis; reclassification; published 4-30-02

TREASURY DEPARTMENT

Foreign Assets Control Office

Western Balkans stabilization regulations:
- Blocking property of persons who threaten international stabilization efforts in Western Balkans; comments request; published 5-30-02

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Voluntary foreign aid programs; U.S. private voluntary organizations; registration; comments due by 6-6-02; published 5-7-02 [FR 02-11243]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Nectarines and peaches grown in—
- California; comments due by 6-4-02; published 4-5-02 [FR 02-08140]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Raisins produced from grapes grown in—
- California; comments due by 6-3-02; published 4-3-02 [FR 02-08141]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Northeast multispecies; comments due by 6-5-02; published 5-6-02 [FR 02-11272]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Summer flounder, scup, and black sea bass; comments due by 6-7-02; published 5-23-02 [FR 02-12779]

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent and trademark cases:
- Fee revisions (2003 FY); comments due by 6-6-02; published 5-7-02 [FR 02-11270]

EDUCATION DEPARTMENT

Elementary and secondary education:
- Disadvantaged children; academic achievement improvement; comments due by 6-5-02; published 5-6-02 [FR 02-11128]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Meetings:
- Residential furnaces and boilers venting installations; energy conservation standards; public workshop; comments due by 6-7-02; published 4-10-02 [FR 02-08619]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural Gas Policy Act:
- Upstream interstate pipelines; firm capacity assignment; comments due by 6-3-02; published 4-18-02 [FR 02-09251]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Miscellaneous organic chemical and coating manufacturing; comments due by 6-3-02; published 4-4-02 [FR 02-05077]
- Organic liquids distribution (non-gasoline); comments due by 6-3-02; published 4-2-02 [FR 02-07095]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Pennsylvania; comments due by 6-3-02; published 5-3-02 [FR 02-10873]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Pennsylvania; comments due by 6-3-02; published 5-3-02 [FR 02-10874]

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 6-6-02; published 5-7-02 [FR 02-11175]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 6-6-02; published 5-7-02 [FR 02-11174]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 6-6-02; published 5-7-02 [FR 02-11173]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Louisiana; comments due by 6-6-02; published 5-7-02 [FR 02-11297]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- South Carolina; comments due by 6-6-02; published 5-7-02 [FR 02-11288]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- South Carolina; comments due by 6-6-02; published 5-7-02 [FR 02-11289]

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste program authorizations:
- Utah; comments due by 6-6-02; published 5-7-02 [FR 02-11291]

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Hazardous waste program authorizations:
- Utah; comments due by 6-6-02; published 5-7-02 [FR 02-11292]

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Benzene, etc.; comments due by 6-3-02; published 4-4-02 [FR 02-08154]

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Methoxychlor; comments due by 6-3-02; published 4-4-02 [FR 02-08155]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Satellite communications—
  - Satellite license procedures; comments due by 6-3-02; published 3-19-02 [FR 02-06525]

Radio stations; table of assignments:
- Maryland; comments due by 6-3-02; published 4-25-02 [FR 02-10163]

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Program:
- Insurance coverage and rates—
  - Insured structures; inspection by communities; comments due by 6-6-02; published 3-8-02 [FR 02-05559]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:
- Food labeling—
  - Nutrient content claims; sodium levels definition

Golden parachute payments; comments due by 6-5-02; published 2-20-02 [FR 02-03819]

Procedure and administration:
Damages caused by unlawful tax collection actions; civil cause of action; comments due by 6-3-02; published 3-5-02 [FR 02-05113]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 378/P.L. 107–182
To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the "Paul Simon Chicago Job Corps Center". (May 21, 2002; 116 Stat. 584)
Last List May 22, 2002

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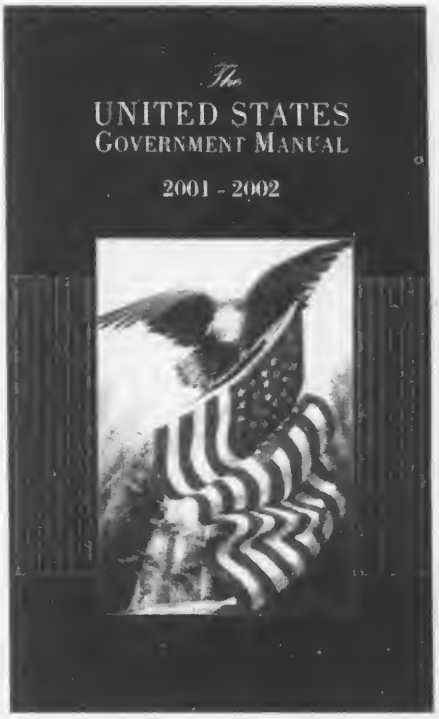

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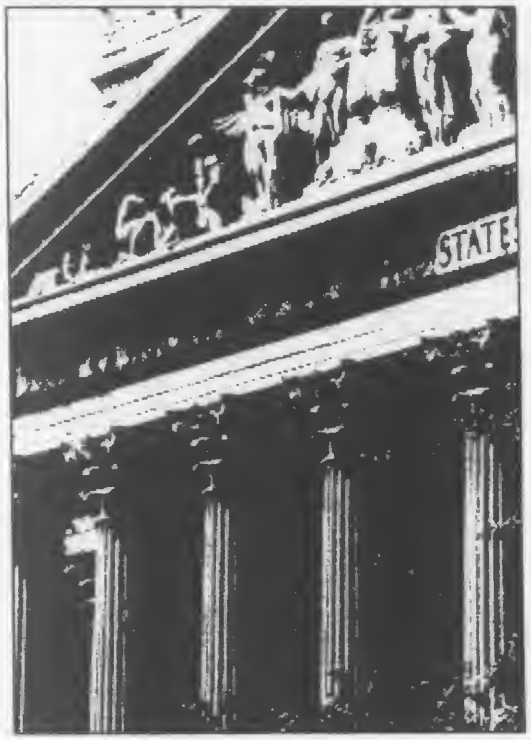

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