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WASHINGTON, DC

WHEN: Tuesday, April 17, 2001 at 9:00 a.m.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1786

Prepayment of RUS Guaranteed and Insured Loans to Electric and Telephone Borrowers

CFR Correction

In Title 7 of the Code of Federal Regulations, Parts 1600 to 1899, revised as of Jan. 1, 2001, § 1786.31 is corrected by removing the second paragraph (c) on page 1018.

[FR Doc. 01–55509 Filed 3–20–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–108–AD; Amendment 39–12147; AD 2001–05–10]

RIN 2120–AA54

Airworthiness Directives; McDonnell Douglas Model DC–10 and MD–11 Series Airplanes, and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10A (military) airplanes, that requires installation of thrust reverser interlocks on certain airplanes, inspections of the thrust reverser systems to detect discrepancies on certain other airplanes, and corrective actions, if necessary. This amendment is prompted by a determination that the current thrust reverser systems do not adequately preclude unwanted deployment of a thrust reverser. The actions specified by this AD are intended to prevent unwanted deployment of a thrust reverser, which could result in reduced controllability of the airplane.

DATES: Effective April 25, 2001.

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

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Philip Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5263; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10A (military) airplanes, was published in the **Federal Register** on November 30, 1999 (64 FR 66816). That action proposed to require installation of thrust reverser interlocks on certain airplanes, inspections of the thrust reverser systems to detect discrepancies on certain other airplanes, and corrective actions, if necessary.

Comments

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

All commenters agree with the intent of the proposed AD; however. some of them request that certain aspects of the proposed AD be revised.

Requests to Revise Certain Compliance Times

Two commenters request that the proposed compliance time (i.e., within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first) specified in paragraphs (a), (b), and (c) of the proposed AD be revised. One commenter suggests a compliance time of "6,000 flight hours or 18 months, whichever occurs first." This commenter states that such an extension will allow the proposed actions to be done at a "Light Check" where special equipment and trained maintenance personnel will be available, if necessary, instead of during line maintenance. The second commenter suggests "3,000 flight hours or 12 months after the AD effective date." This commenter states that such an extension will allow affected operators to do the proposed actions during a regularly scheduled maintenance interval, thereby preventing service disruptions.

The FAA does not agree with the first commenter's request to extend the compliance time to "6,000 flight hours or 18 months, whichever occurs first." However, we agree with the second commenter's request to extend the compliance time to "within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first." Extending the compliance time by an additional 1,500 flight hours or 6 months will not adversely affect safety and will allow the actions required by paragraphs (a), (b), and (c) of this AD to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. Extending the compliance time beyond 3,000 flight hours or 12 months after the effective date of this AD may affect safety. In addition, no information has been provided to justify the extension beyond this time. Therefore, we have revised paragraphs (a), (b), and (c) of the final rule accordingly.

One commenter requests that the compliance time specified in paragraphs (d)(1) and (d)(2) of the proposed AD be revised to include a grace period of "or at the next scheduled [Certification

Maintenance Requirements (CMR)] check interval of 17,000 flight hours per CMR, Revision N, whichever occurs first." The commenter also requests that a grace period of "or at the next scheduled CMR check interval of 13,800 flight hours per CMR, Revision N, whichever occurs first," be included in paragraph (h) of the proposed AD. The commenter states that these grace periods would ensure that previous CMR inspection intervals (i.e., 17,000 or 13,800 flight hours, as applicable) for the General Electric (GE) configuration documented in Boeing MD–11 CMR, Report Number MDC–K4174, Revision N, are not exceeded with the compliance time for the initial inspection specified in paragraphs (d)(1), (d)(2), and (h) of the proposed AD, as applicable.

The FAA does not agree. The type certificate for these airplanes includes a CMR to perform this same inspection at intervals not to exceed 17,000 or 13,800 flight hours, respectively. This CMR is still in effect and must be complied with. If the CMR requires an inspection before the compliance time stated in paragraphs (d)(1), (d)(2) or (h) of this AD, as applicable, operators may take credit for doing the CMR, and then repeat the inspection at the intervals specified in the applicable paragraph. We have included new notes in the final rule to clarify this information.

Request to Revise Repetitive Inspection Intervals

One commenter requests that a second interval of "450 flight cycles, whichever occurs later," be added to the repetitive inspection intervals in paragraphs (d)(1), (e), (g)(1), and (g)(2) of the proposed AD. The commenter states that the deterioration of the entire thrust reverser system is mainly based on flight cycles rather than flight hours. The commenter states that this second interval would allow operators to fit the initial inspections interval into their A-check schedule.

The FAA does not agree. Compliance times for AD's are normally based on a parameter related to failure of a particular component. In this case, latent (hidden) failures and consequent unwanted deployment of a thrust reverser in flight are undoubtedly related to the number of flight hours. Flight cycles do not take into account the wear and tear that the thrust reverser and associated wiring receive during the entire flight envelope. In addition, the safety analysis tools, supporting reliability data, and safety criteria to establish inspection intervals are based on flight hours. Furthermore, the FAA has not been provided with the necessary information to determine that there is an apparent direct relationship between flight-hour inspection intervals and flight-cycle inspection intervals.

Request to Reference Revision Q of Boeing MD–11 CMR

One commenter requests that the proposed AD be revised to reference Revision Q of the Boeing MD–11 CMR. The commenter states that changes have been made recently to two MD–11 Airplane Maintenance Manual (AMM) references in the Boeing MD–11 CMR, Revision P, for the GE CF6–80C2D1F thrust reverser system. The commenter further described the exact changes. The commenter also states that it will release Revision Q of the Boeing MD–11 CMR to reflect the AMM changes.

The FAA agrees. We have reviewed and approved pages 17 and 18 of Boeing MD–11 CMR, Report Number MDC–K4174, Revision Q, dated December 22, 1999. The inspection and test procedures are identical to those described in Revision P of the Boeing MD–11 CMR [which was referenced in paragraph (d) of the NPRM as an appropriate source of service information]. The only change effected by Revision Q is to reference recently relocated sections of the McDonnell Douglas MD–11 AMM. Therefore, we have revised paragraph (d) of the final rule to include Revision Q of the Boeing MD–11 CMR as an additional source of service information.

Request to Delete Reference to a Certain Chapter of the MD–11 AMM

One commenter requests that, in the bulleted list of documents under the heading "Explanation of Relevant Service Information" and paragraph (i)(1) of the proposed AD, the reference to Chapter 71 of McDonnell Douglas MD–11 AMM be deleted. The commenter states that all check procedures for the thrust reverser system now reside only in Chapter 78 of McDonnell Douglas MD–11 AMM.

The FAA agrees. The FAA acknowledges that the corrective actions, if necessary, required by this AD are now only specified in Chapter 78 of McDonnell Douglas MD–11 AMM. Therefore, we have deleted the reference to Chapter 71 in the bulleted list in paragraph (i)(1) of the final rule. The "Explanation of Relevant Service Information" section of the proposed AD does not reappear in the final rule. Operators should note that Boeing MD–11 CMR, Report Number MDC–K4174, Revision P, dated April 5, 1999, which is referenced in this AD as an appropriate source of service information for accomplishing the various inspections and checks required by this AD, does reference Chapter 71 of McDonnell Douglas MD–11 AMM as an additional source of service information for accomplishing those specific actions.

Request to Exclude Certain Part Numbers (P/N)

One commenter requests that the phrase "or subsequent" be inserted after "part number 1519M91P06" in the applicability of paragraph (e) of the proposed AD. The FAA does not agree. The phrase "or subsequent" will exclude affected Model MD–11 airplanes on which future electronic control units (ECU) in production would be installed from being subject to the requirements of paragraph (e) of this AD. Since the issuance of the NPRM, we have approved the following ECU P/N's, which, if any one of them (including P/N 1519M91P06) is installed on an affected Model MD–11 airplane, would exclude that airplane from being subject to the requirements of paragraph (e) of this AD:

- 1519M91P07
- 1519M91P09
- 1820M34P01
- 1820M34P02
- 1820M34P04

Operators should note that the revision level and date on the above P/N's do not matter with regard to the applicability of paragraph (e) of this AD. Therefore, we have revised the applicability of paragraph (e) of this AD to exclude certain affected Model MD–11 airplanes equipped with the ECU's listed above installed. Operators of affected Model MD–11 airplanes equipped with a future ECU in production (approved after the publication of the AD) may request an alternative method of compliance with this AD under the provisions of paragraph (j) of the final rule.

Request to Include An Optional Terminating Action

One commenter requests that the proposed AD be revised to include an optional terminating action for the repetitive detailed visual inspection and functional checks to detect failed open pressure switches on the hydraulic control unit required by paragraph (h) of the proposed AD. The commenter states that the procedures identified in Boeing MD–11 CMR, Report Number MDC–K4174, Revision P, dated April 5, 1999; McDonnell Douglas Service Bulletin MD11–31–085, Revision 01, dated April 9, 1998; and McDonnell Douglas Service Bulletin MD11–78–007, dated January 31, 2000; eliminate the need for the repetitive inspections and functional

checks of the pressure switch and wiring of the hydraulic control unit.

The FAA does not agree. No technical justification, criteria, or data were submitted to support the commenter's request. At this time, the FAA cannot determine whether the commenter's request is applicable. However, the FAA may approve requests for an alternative method of compliance under the provisions of paragraph (j) of this AD if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

Request to Revise Descriptive Language

One commenter notes that a sentence under the heading "Explanation of Relevant Service Information" reads "These procedures also include inspections to detect failed open pressure switches on the hydraulic control unit, failed stow position microswitches, or failed locking mechanisms." The commenter also notes that paragraph (h) of the proposed AD reads "* * * to detect failed stow position microswitches." The commenter requests that the phrase "and their associated wiring" be inserted after the word "microswitches" in both places in the proposed AD.

The FAA agrees that the commenter's suggestion is a more accurate description of the inspection area. We have revised paragraph (h) of the final rule accordingly. The "Explanation of Relevant Service Information" section of the proposed AD does not reappear in the final rule.

Request to Mandate Reporting

One commenter requests that the proposed AD require operators to submit to Boeing the inspection record (i.e., Attachment A) in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, dated February 18, 1999, and McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, dated February 18, 1999, for the applicable initial inspections required by the proposed AD. Reports from subsequent inspections should be at an operator's discretion. The commenter states that the data obtained from the reports would enhance the reliability database for the DC–10 thrust reverser system.

The FAA does not agree. The FAA finds it appropriate to leave it to the operators' discretion to report inspection findings to Boeing. Since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. No change to this final rule is necessary.

Requests to Revise Cost Impact

One commenter notes that, under the heading "Cost Impact," the proposed AD states that, for McDonnell Douglas Model DC–10–10, –15, –30, and –40 series airplanes and KC–10A (military) airplanes that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, dated February 18, 1999, it would take approximately 5 work hours per airplane to accomplish the required actions related to this service bulletin. The commenter states that the proposed actions will take approximately 16 work hours per engine or 48 work hours per airplane. The commenter also states that maintenance access for the No. 2 engine on the subject airplanes requires specific stand access. Another commenter states that these proposed actions will take approximately 26 work hours per airplane to accomplish and five hours to do the actions specified in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, and 21 work hours to do the actions specified in Middle River Aircraft Systems (MRAS) CF606 Service Bulletin S/B 78–2004, Revision 1, dated December 18, 1997, or MRAS CF6–50 Service Bulletin S/B 78–3001, Revision 2, dated December 18, 1997.

One commenter states that, for Model MD–11 airplanes equipped with General Electric (GE) or Pratt & Whitney (P&W) engines, the proposed actions will take approximately 10 work hours per airplane. Under the heading "Cost Impact," the proposed AD indicates 6 work hours per airplane equipped with GE engines and 31 work hours per airplane equipped with P&W engines.

After considering the information presented by commenters, the FAA agrees that the subject work hours in the cost impact information, below, should be revised. We have revised the work hours in the final rule as suggested by the commenters. The economic analysis, however, is limited only to the cost of actions actually required by the rule. It does not consider the costs of "on condition actions, e.g., repair, if necessary," since those actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

One commenter states that, for Model DC–10–40 series airplanes that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, dated February 18, 1999, the proposed actions will take 48 work hours per airplane, rather than the 31 work hours specified under the heading "Cost Impact."

The FAA does not agree. The cost impact information, below, describes only the "direct" costs of the specific actions required by this AD. The number of work hours necessary to accomplish the required actions, specified as 31 in the cost impact information, below, was provided by the manufacturer in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, as the best data available to date. This number represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up; planning time; or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

One commenter notes that, under the heading "Cost Impact," the proposed AD states that five McDonnell Model MD–11 airplanes equipped with P&W engines of U.S. registry would be affected by the proposed AD. The commenter states that it has 15 affected airplanes. Another commenter states that the number of McDonnell Douglas Model MD–11 airplanes equipped with GE engines of U.S. Registry that would be affected by the proposed AD is also incorrect; the correct number is approximately 81 (not including hull losses). From these comments, the FAA infers that the commenters are requesting that the number of airplanes be revised in the appropriate sentence under the heading "Cost Impact."

The FAA agrees with the commenters to update the number of affected airplanes. However, we have confirmed with operators that there are 110 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with GE engines, of which, 85 are on the U.S. registry. There are 81 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with P&W engines, of which, 29 are on the U.S. registry. Therefore, we have revised the final rule accordingly.

One commenter requests that, in the second paragraph under the heading "Cost Impact" and paragraph (b), "–40" be deleted in the first sentence. The commenter states that McDonnell Douglas Alert Service Bulletin DC10–

78A056, Revision 02, dated February 18, 1999 (which is referenced in that paragraph as the appropriate source of service information for determining the affected airplanes), is only applicable to those affected models equipped with GE engines. Model DC–10–40 series airplanes are powered by P&W engines. The FAA agrees and has revised the final rule accordingly.

Explanation of Changes Made to Proposed AD

For clarification purposes, the FAA has revised the reference to the Boeing MD–11 CMR to include its associated Report Number MDC–K4174. The proposed AD referenced the incorrect date of the original version of McDonnell Douglas Alert Service Bulletin DC10–78A056. We have revised the date of that service bulletin from January 1, 1998, to January 19, 1998, in the final rule. In addition, we have made some minor editorial changes to the body of the AD to incorporate the use of plain language.

Conclusion

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

Interim Action

For all Model DC–10 series airplanes, this is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 259 Model DC–10–10, –30, and –40 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979. The FAA estimates that 135 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions related to this service bulletin, and that the average labor rate is $60 per work hour. The required parts will be obtained from the operator's stock. Based on these figures, the cost impact of this portion of the AD on U.S. operators is estimated to be $81,000, or $600 per airplane.

There are approximately 359 Model DC–10–10, –15, and –30 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, dated February 18, 1999. The FAA estimates that 187 airplanes of U.S. registry will be affected by this AD, that it will take approximately 26 work hours per airplane to accomplish the required actions related to this service bulletin, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the AD on U.S. operators is estimated to be $291,720, or $1,560 per airplane, per inspection cycle.

There are approximately 41 Model DC–10–40 series airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, dated February 18, 1999. The FAA estimates that 22 airplanes of U.S. registry will be affected by this AD, that it will take approximately 31 work hours per airplane to accomplish the required actions related to this service bulletin, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the AD on U.S. operators is estimated to be $40,920, or $1,860 per airplane, per inspection cycle.

There are approximately 110 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with GE engines. The FAA estimates that 85 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the AD on U.S. operators is estimated to be $51,000, or $600 per airplane, per inspection cycle.

There are approximately 81 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with P&W engines. The FAA estimates that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the AD on U.S. operators is estimated to be $17,400, or $600 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–05–10 McDonnell Douglas: Amendment 39–12147. Docket 99–NM–108–AD.

Applicability: All Model DC–10 series airplanes, MD–11 series airplanes, and KC–10A (military) airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unwanted deployment of the thrust reverser, which could result in reduced controllability of the airplane, accomplish the following:

Modification of Certain Model DC–10 Series Airplanes

(a) For Model DC–10–10, –30, and –40 series airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979: Within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, install a thrust reverser interlock (in-flight lockout) by installing two relays on the forward relay panel and revising the associated wiring, per the service bulletin. The requirements of this paragraph must be done before or with the requirements of paragraph (b) or (c) of this AD, as applicable.

Inspection of Model DC–10 Airplanes Powered by General Electric Engines

(b) For DC–10–10, –15, and –30 series airplanes listed in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, dated February 18, 1999: Within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, do a detailed visual inspection, functional check, and torque checks of the thrust reverser system and the thrust reverser interlocks to detect discrepancies [i.e., below minimum torque required to overcome the pneumatic drive motor (PDM) disc brake; cuts, tears, or missing sections of the translating cowl seals; dents, cracks, holes, or loose fasteners on the Dagmar fairing or aft frame; improper alignment of the feedback rod; hidden faults in the translating cowl auto re-stow system; a failed over pressure shutoff valve (OPSOV); and improper operation of the fan reverser actuation system], per the service bulletin. Repeat the inspections thereafter every 6,000 flight hours or 18 months, whichever occurs first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Inspection of the thrust reverser system accomplished before the effective date of this AD per McDonnell Douglas Alert Service Bulletin DC10–78A056, dated January 19, 1998, or Revision 01, dated June 4, 1998, is considered acceptable for compliance with the initial inspections required by paragraph (b) of this AD.

Note 4: McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, dated February 18, 1999, references Middle River Aircraft Systems (MRAS) Service Bulletin 78–3001, Revision 2, dated December 18, 1997, and MRAS Service Bulletin 78–2004, Revision 1, dated December 18, 1997, as additional sources of service information for accomplishment of the inspections and corrective actions.

Inspection of Model DC–10–40 Series Airplanes Powered by Pratt & Whitney Engines

(c) For Model DC–10–40 series airplanes listed in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, dated February 18, 1999: Within 3,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, do a detailed visual inspection, functional check, and torque checks of the thrust reverser system to detect discrepancies [i.e. damaged or improperly functioning stow latch hooks; cuts, gouges, and holes in the pneumatic seal/bullnose seal; improper functioning of the pneumatic drive unit (PDU) position locking retention feature; improper installation or improper operation of the system wiring, switches, or indicator lights; damage to the fan reverser flexshafts, actuators, translating sleeve tracks, or sliders; improper function of the in-flight interlock system; and improper operation of the thrust reverser power source, translating sleeve, throttle interlocks, or cockpit indicators], per the service bulletin. Repeat the inspections thereafter every 6,000 flight hours or 18 months, whichever occurs first.

Note 5: Inspection of the thrust reverser system per McDonnell Douglas Alert Service Bulletin DC10–78A057, dated November 30, 1998, accomplished before the effective date of this AD, is considered acceptable for initial compliance with the applicable action specified in paragraph (c) of this AD.

Inspection of Model MD–11 Series Airplanes Powered by General Electric Engines

(d) For Model MD–11 series airplanes equipped with General Electric engines: Do a detailed visual inspection and functional check of the two position microswitches on the Center Drive Unit (CDU) and their associated wiring to detect failed open switches or open wire runs, and the aerodynamic seal between the reverser translating sleeves and the main reverser structure to detect damage to the aerodynamic seal or its interface surface on the reverser structure; and do an inspection to determine the torque value of the cone brake within the CDU to detect slipping or a failed CDU brake. These inspections and the functional check shall be done per pages 17 and 18 of the Boeing MD–11 Certification Maintenance Requirements (CMR), Report Number MDC–K4174, Revision P, dated April 5, 1999, or Revision Q, dated December 22, 1999; at the times specified in paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) For airplanes on which the modification (i.e., translating cowl double P-seal configuration) specified in MRAS CF6–80C2D1F Alert Service Bulletin 78A1005, dated March 29, 1995; Revision 1, dated June 6, 1996; Revision 2, dated October 18, 1996; Revision 3, dated August 18, 1997; or Revision 4, dated December 21, 1998; has been accomplished: Inspect within 7,000 flight hours after the effective date of this AD. Repeat the inspections thereafter every 7,000 flight hours.

(2) For airplanes on which the modification (i.e., translating cowl double P-seal configuration) specified in MRAS Service Bulletin 78A1005, dated March 29, 1995; Revision 1, dated June 6, 1996; Revision 2, dated October 18, 1996; Revision 3, dated August 18, 1997; or Revision 4, dated December 21, 1998; has not been accomplished: Inspect within 2,000 flight hours after the effective date of this AD. Repeat the inspections thereafter every 2,000 flight hours.

Note 6: The type certificate for these airplanes includes a CMR to perform this same inspection at intervals not to exceed 17,000 flight hours. This CMR is still in effect and must be complied with. If the CMR requires an inspection before the compliance time stated in paragraph (d)(1) or (d)(2) of the AD, as applicable, operators may take credit for doing the CMR, and then repeat the inspection at the intervals specified in that applicable paragraph.

(e) For Model MD–11 series airplanes equipped with General Electric engines, without an electronic control unit (ECU) listed in Table 1 installed: Within 2,000 flight hours after the effective date of this AD, test the thrust reverser pressurization system to detect an uncommanded pressurized thrust reverser system and/or a failed thrust reverser pressure switch, as applicable, per pages 52 and 53 of the Boeing MD–11 CMR, Report Number MDC–K4174, Revision P, dated April 5, 1999. Repeat the inspections thereafter every 2,000 flight hours. Table 1 is as follows:

TABLE 1

ECU P/N
1519M91P06
1519M91P07
1519M91P09
1820M34P01
1820M34P02
1820M34P04

(f) For Model MD–11 series airplanes equipped with General Electric engines: Within 7,000 flight hours after the effective date of this AD, inspect the thrust reverser in-flight lockout system (IFLS) to detect failure

of the flight control computer (FCC), radio altimeter input to the FCC, main landing gear wheel speed input to the FCC, ground sensing system, or wiring that causes an on-ground status in the IFLS while the airplane is airborne, per page 54 of the Boeing MD–11 CMR, Report Number MDC–K4174, Revision P, dated April 5, 1999. Repeat the inspections thereafter every 7,000 flight hours.

(g) For Model MD–11 series airplanes equipped with General Electric engines: Within 600 flight hours after the effective date of this AD, accomplish the actions specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD per MRAS CF6–80C2D1F Alert Service Bulletin 78A1082, dated August 25, 1999.

(1) Perform a pressure differential inspection of the directional pilot valves (DPV) to detect a partially open solenoid or failed O-ring. If any partially open solenoid or failed O-ring is detected, before further flight, replace the discrepant DPV with a DPV that has been inspected per this paragraph. Repeat the inspection thereafter every 2,000 flight hours. Or

(2) Replace the DPV with a DPV that has been inspected per paragraph (g)(1) of this AD. Repeat the replacement thereafter every 2,000 flight hours. Or

(3) Deactivate the thrust reverser per the MD–11 Master Minimum Equipment List, and reactivate the thrust reverser only after accomplishing the actions specified in paragraph (g)(1) or (g)(2) of this AD.

Inspection of Model MD–11 Series Airplanes Powered by Pratt & Whitney Engines

(h) For MD–11 series airplanes equipped with Pratt & Whitney engines: Within 7,000 flight hours after the effective date of this AD, do a detailed visual inspection and functional checks, as applicable, of the thrust reverser system and the thrust reverser IFLS to detect failed open pressure switches on the hydraulic control unit, to detect failed stow position microswitches and associated wiring, or failed locking mechanisms; and failure of the FCC, radio altimeter input to the FCC, main landing gear wheel speed input to the FCC, ground sensing system, or wiring that causes an on-ground status in the IFLS while the aircraft is airborne, per pages 19, 20, and 54 of the Boeing MD–11 CMR, Report Number MDC–K4174, Revision P, dated April 5, 1999. Repeat the inspections thereafter every 7,000 flight hours.

Note 7: The type certificate for these airplanes includes a CMR to perform this same inspection at intervals not to exceed 13,800 flight hours. This CMR is still in effect and must be complied with. If the CMR requires an inspection before the compliance time stated in paragraph (h) of the AD, operators may take credit for doing the CMR, and then repeat the inspection at the intervals specified in that paragraph.

Corrective Actions

(i) If any discrepancy is detected during any inspection required by this AD, before further flight, do the actions specified in either paragraph (i)(1) or (i)(2) of this AD.

(1) Do the applicable corrective action per the following service documents:

(i) Chapter 78 of McDonnell Douglas DC–10 Aircraft Maintenance Manual;

(ii) Chapter 78 of McDonnell Douglas DC–10 Turn Around Fault Isolation Manual; Chapter 78 of General Electric Shop Manual;

(iii) MRAS CF6–6 Service Bulletin 78–2004, Revision 1, dated December 18, 1997;

(iv) MRAS CF6–50 Service Bulletin 78–3001 Revision 2, dated December 18, 1997;

(v) McDonnell Douglas Alert Service Bulletin DC10–78A056, dated January 19, 1998, Revision 01, dated June 4, 1998, or Revision 02, dated February 18, 1999;

(vi) McDonnell Douglas Alert Service Bulletin DC10–78A057, dated November 30, 1998, or Revision 01, dated February 18, 1999;

(vii) Chapter 78 of McDonnell Douglas MD–11 Aircraft Maintenance Manual;

(viii) Chapter 78 of McDonnell Douglas MD–11 Fault Isolation Manual; or

(ix) A method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(2) Deactivate the thrust reverser in accordance with the DC–10 Master Minimum Equipment List or the MD–11 Master Minimum Equipment List, as applicable.

Alternative Methods of Compliance

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

Note 8: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(l) Except as provided by paragraphs (i)(1) and (i)(2) of this AD, the actions shall be done per the applicable service bulletins identified in Table 2, which contain the specified list of effective pages. Table 2 is as follows:

TABLE 2

Document and date	Page numbers	Revision level shown on page	Date shown on page
McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, July 24, 1979.	1–20	1	July 24, 1979.
McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 02, February 18, 1999.	1–15	02	February 18, 1999.
Attachment A	1–4	02	February 18, 1999.
McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, February 18, 1999.	1–42	01	February 18, 1999.
Attachment A	1–4	01	February 18, 1999.
Boeing MD–11 Certification Maintenance Requirements, Report Number MDC–K4174, Revision P, April 5, 1999.	List of Effective Pages Pages LIST–1 through LIST–2.	P (Only indicated on the cover page; no other page contains this information).	April 5, 1999 (Only indicated on the cover page; no other page of the document is dated).
Boeing MD–11 Certification Maintenance Requirements, Report Number MDC–K4174, Revision Q, December 22, 1999.	List of Effective Pages Pages LIST–1 through LIST–2.	Q (Only indicated on the cover page; no other page contains this information).	December 22, 1999 (Only indicated on the cover page; no other page of the document is dated).
Middle River Aircraft Systems CF6–80C2D1F Alert Service Bulletin 78A1082, August 25, 1999.	1–15	Original	August 25, 1999.

TABLE 2—Continued

Document and date	Page numbers	Revision level shown on page	Date shown on page
Middle River Aircraft Systems CF6–6 Service Bulletin 78–2004, Revision 1, December 18, 1997.	1–36	1	December 18, 1997.
Middle River Aircraft Systems CF6–50 Service Bulletin 78–3001, Revision 2, December 18, 1997.	1–43	2	December 18, 1997.
McDonnell Douglas Alert Service Bulletin DC10–78A056, January 19, 1998.	1–15	Original	January 19, 1998.
Attachment A	1–4	Original	December 17, 1997.
McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 01, June 4, 1998.	1–15	01	June 4, 1998.
McDonnell Douglas Alert Service Bulletin DC10–78A057, November 30, 1998.	1–41	Original	November 30, 1998.
Attachment A	1–4	Original	November 30, 1998.
McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, February 18, 1999.	1–42	01	February 18, 1999.
Attachment A	1–4	01	February 18, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(m) This amendment becomes effective on April 25, 2001.

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

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6282 Filed 3–20–01; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–44079]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its rules to delegate authority to the Director of the Division of Market Regulation to grant exemptions from the provisions of the Quote Rule regarding transactions in listed options and the Trade-Through Disclosure Rule (Rules 11Ac1–1 and 11Ac1–7 under the Securities Exchange Act of 1934, respectively). This delegation of authority will facilitate the timely implementation of the Trade-Through Disclosure Rule and amendments to the Quote Rule.

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: John Roeser, Attorney, at (202) 942–0762, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") has adopted an amendment to Rule 30–3 of its Rules of Organization and Program Management governing Delegations of Authority to the Director of the Division of Market Regulation ("Director").[1] The amendment revises paragraph (a)(28) of Rule 30–3 to conform this paragraph to recent amendments to Rule 11Ac1–1 to clarify that the Director continues to have authority to grant exemptions from the provisions of Rule 11Ac1–1.[2] In addition, the amendment adds new paragraph (a)(71) to Rule 30–3 to authorize the Director to grant exemptions from the provisions of Rule 11Ac1–7.[3]

Generally, Rule 11Ac1–1 requires exchanges and broker-dealers to publish firm quotes. Rule 11Ac1–1(e) provides that the Commission may exempt from the provisions of this rule, either unconditionally or on specified terms and conditions, any responsible broker or dealer, electronic communications network, exchange, or association if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to and perfection of the mechanism of a national market system.

Rule 30–3(a)(28) currently authorizes the Director to grant exemptions from the provisions of Rule 11Ac1–1, pursuant to paragraph (d) of Rule 11Ac1–1. The Commission, however, recently amended Rule 11Ac1–1 to include transactions in listed options and, as a result, former paragraph (d) of Rule 11Ac1–1 was redesignated as paragraph (e).[4] To clarify that Rule 30–3(a)(28) authorizes the Director to grant exemptions from Rule 11Ac1–1 including with regard to transactions in listed options, the Commission is now revising Rule 30–3(a)(28) to reference paragraph (e), rather than paragraph (d), of Rule 11Ac1–1.

Rule 11Ac1–7 requires a broker to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote on another market, unless the broker effects the transaction on an exchange that participates in an

[1] 17 CFR 200.30–3.

[2] 17 CFR 240.11Ac1–1.

[3] 17 CFR 240.11Ac1–7.

[4] *See* Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

approved linkage plan that includes provisions reasonably designed to limit customers' orders from being executed at prices inferior to a better published price or the customer's order was executed as part of a block trade.

Rule 11Ac1–7(c) provides that the Commission may exempt from the provisions of this rule, either unconditionally or on specified terms and conditions, any broker or dealer if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, or the removal of impediments to and perfection of the mechanism of a national market system. New paragraph (a)(71) to Rule 30–3 authorizes the Director to grant exemptions under this paragraph (c) of Rule 11Ac1–7.

The delegation of authority to the Director is intended to conserve Commission resources by permitting Division staff to grant exemptions, where appropriate and in a timely manner, from the provisions of Rules 11Ac1–1 and 11Ac1–7. The Commission anticipates that the delegation of authority will facilitate the timely implementation of the rules, particularly Rule 11Ac1–7. Nevertheless, the staff may submit matters to the Commission for consideration as it deems appropriate. The Commission does not expect that exemptions from Rules 11Ac1–1 and 11Ac1–7 will be routinely issued.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedures Act,[5] that these amendments relate solely to agency organization, procedure, or practice, and do not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication of the amendment prior to its effective date are unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

Text of Amendment

In accordance with the preamble, the Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

[5] 5 U.S.C. 553(b)(3)(A).

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The authority citation for Part 200, subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–3 is amended in paragraph (a)(28) by revising the phrase "pursuant to paragraph (d)" to read "pursuant to paragraph (e)" and by adding paragraph (a)(71) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(71) Pursuant to paragraph (c) of Rule 11Ac1–7 (17 CFR 240.11Ac1–7), to grant exemptions, conditionally or unconditionally, from any provision or provisions of Rule 11Ac1–7.

* * * * *

By the Commission.

Dated: March 15, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7007 Filed 3–20–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44078; File No. S7–17–00]

RIN 3235–AH96

Firm Quote and Trade-Through Disclosure Rules for Options

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Securities and Exchange Commission ("Commission") is extending the compliance date for Rule 11Ac1–7 of the Securities Exchange Act of 1934. Rule 11Ac1–7 requires a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote, unless the transaction was effected on a market that participates in an intermarket linkage plan approved by the Commission. This rule was published on December 1, 2000 (65 FR 75439).

DATES: *Effective Date:* The effective date for Rule 11Ac1–7, (§ 240.11Ac1–7) published on December 1, 2000 (65 FR 75439), remains February 1, 2001.

Compliance Date: The compliance date for Rule 11Ac1–7 (§ 240.11Ac1–7) is extended from April 1, 2001 to October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Colihan, Special Counsel, at (202) 942–0735, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Commission adopted Rule 11Ac1–7 [1] ("Rule") under the Securities Exchange Act of 1934 ("Exchange Act") to require a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote ("intermarket trade-through"), and to disclose the better published quote available at that time.[2] This disclosure must be made in writing at or before the completion of the transaction, and may be provided in conjunction with the confirmation statement routinely sent to investors. However, a broker-dealer is not required to disclose to its customer an intermarket trade-through if the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan that includes provisions reasonably designed to limit customers' orders from being executed at prices that trade through a better published quote. In addition, broker-dealers will not be required to provide the disclosure required by the Rule if the customer's order is executed as part of a block trade.

In the Adopting Release, the Commission noted that it would reconsider the compliance date if the options exchanges continued to make substantial progress towards implementing a linkage plan.[3] The Commission notes that while progress has been made toward implementing the linkage plan approved by the Commission in July 2000,[4] efforts in this regard have not yet resulted in a linkage that can be implemented before the compliance date of April 1, 2001. Specifically, the options markets have achieved their goal of narrowing the selection of linkage providers to three

[1] 17 CFR 240.11Ac1–7.

[2] *See* Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000) ("Adopting Release").

[3] *Id.*

[4] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) ("Linkage Plan").

and are on schedule to make the final selection. In addition, on March 12, 2001, the Linkage Plan participants filed an amendment to the Linkage Plan to conform the Linkage Plan to the minimum requirements set forth by the Commission in adopting Rule 11Ac1–7 and therefore, to allow broker-dealers effecting transactions on their markets to be eligible for an exemption from the disclosure requirements of Rule 11Ac1–7 once implementation is completed. In a letter dated February 20, 2001, the Securities Industry Association requested, on behalf of its member firms, that the Commission extend the compliance date of the rule.[5]

Because the Commission believes that options exchanges have continued to make substantial progress towards implementing a linkage, it is extending the compliance date of Rule 11Ac1–7 for six months, to October 1, 2001. The extension is intended to allow the options markets to make a final selection of the vendor to build the linkage, and provide the options exchanges with time to integrate their internal systems into the linkage system, once built. The Commission believes that good cause exists to extend the compliance date so that the options markets can implement a linkage before imposing the disclosure requirements of the Rule on broker-dealers.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedures Act,[6] that extending the compliance date relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication prior to the extension is unnecessary.

By the Commission.

Dated: March 15, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–7008 Filed 3–20–01; 8:45 am]

BILLING CODE 8010–01–P

[5] *See* letter from Marc E. Lackritz, President, Securities Industry Association, to Annette Nazareth, Director, Division of Market Regulation, Commission, dated February 20, 2001 (explaining the difficulty broker-dealers face in their efforts to comply with Rule 11Ac1–7 before an options linkage is fully implemented).

[6] 5 U.S.C. 553(b)(3)(A).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 382

[Docket No. RM00–7–001; Order No. 641–A]

Revision of Annual Charges Assessed to Public Utilities

March 15, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Denying Rehearing and Granting Clarification in Part.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying rehearing and granting clarification in part of its order amending its regulations to establish a new methodology for the assessment of annual charges to public utilities. Under this new methodology, annual charges will be assessed to public utilities that provide transmission service based on the volume of electricity transmitted by those public utilities. In effect, the Commission will assess annual charges on transmission rather than on both power sales and transmission.

EFFECTIVE DATE: This Order Denying Rehearing and Granting Clarification in Part will become effective on March 15, 2001.

FOR FURTHER INFORMATION CONTACT:

Herman Dalgetty (Technical Information), Office of the Executive Director and Chief Financial Officer, 888 First Street, N.E., Washington, D.C. 20426, (202) 219–2918.

Lawrence R. Greenfield (Legal Information), Office of the General Counsel, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0415.

SUPPLEMENTARY INFORMATION:

Order Denying Rehearing and Granting Clarification in Part

Issued March 15, 2001.

I. Introduction

In an effort to reflect changes in the electric industry and in the way the Federal Energy Regulatory Commission (Commission) regulates the electric industry, in Order No. 641,[1] the Commission amended its regulations to establish a new methodology for the assessment of annual charges to public utilities. Under the new regulations, annual charges will be assessed to public utilities that provide transmission service based on the volume of electricity they transmit. The new regulations will result in the Commission's assessing annual charges on transmission rather than, as previously, assessing annual charges on both power sales and transmission.

On November 27, 2000, Public Service Electric and Gas Company (PSE&G) filed a request for rehearing of Order No. 641, and, separately, the California Independent System Operator Corporation filed a motion for clarification of Order No. 641. As discussed below, rehearing will be denied, and clarification will be granted in part.

II. Background

A. Commission Authority

The Commission is required by section 3401 of the Omnibus Budget Reconciliation Act of 1986 (Budget Act)[2] to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred * * * in that fiscal year."[3] The annual charges must be computed based on methods which the Commission determines to be "fair and equitable."[4] The Conference Report accompanying the Budget Act provides the Commission with the following guidance as to this phrase's meaning:

> [A]nnual charges assessed during a fiscal year on any person may be reasonably based on the following factors: (1) The type of Commission regulation which applies to such person such as gas pipeline or electric utility regulation; (2) the total direct and indirect costs of that type of Commission regulation incurred during such year; [5] (3) the amount of energy—electricity, natural gas, or oil—transported or sold subject to Commission regulation by such person during such year; and (4) the total volume of all energy transported or sold subject to Commission regulation by all similarly situated persons during such year.[6]

The Commission may assess these charges by making estimates based upon data available to it at the time of the assessment.[7]

[1] Revision of Annual Charges Assessed to Public Utilities, Order No. 641, 65 FR 65,757 (November 2, 2000), FERC Stats. & Regs. ¶ 31,109 (2000) (Order No. 641).

[2] 42 U.S.C. 7178.

[3] This authority is in addition to that granted to the Commission in sections 10(e) and 30(e) of the Federal Power Act (FPA). 16 U.S.C. 803(e), 823a(e).

[4] 42 U.S.C. 7178(b).

[5] The Commission is required to collect not only all its direct costs but also all its indirect expenses such as hearing costs and indirect personnel costs. *See* H.R. Rep. No. 99–1012 at 238 (1986), *reprinted in* 1986 U.S.C.C.A.N. 3868, 3883 (Conference Report); *see also* S. Rep. No. 99–348 at 56, 66 and 68 (1986).

[6] *See* Conference Report at 239 (1986 U.S.C.C.A.N. at 3884).

[7] 42 U.S.C. 7178(c).

The annual charges do not enable the Commission to collect amounts in excess of its expenses, but merely serve as a vehicle to reimburse the United States Treasury for the Commission's expenses.[8]

B. Pre-Existing Annual Charge Billing Procedure

As required by the Budget Act, the Commission's regulations provided for the payment of annual charges by public utilities.[9] The Commission intended that these electric annual charges in any fiscal year would recover the Commission's estimated electric regulatory program costs (other than the costs of regulating Federal Power Marketing Agencies (PMAs) and electric regulatory program costs recovered through electric filing fees) for that fiscal year. In the next fiscal year, the Commission would adjust its annual charges up or down, as appropriate, to eliminate any over- or under-recovery of the Commission's actual costs and to correct any over- or under-charging of any particular person.[10]

In calculating annual charges, the Commission first determined the total costs of its electric regulatory program and subtracted all PMA-related costs and electric filing fee collections to determine total collectible electric regulatory program costs. It then used the data submitted under FERC Reporting Requirement No. 582 (FERC–582) to determine the total volumes of long-term firm wholesale sales and transmission, and short-term sales and transmission and exchanges, for all assessable public utilities. The Commission divided those transaction volumes into its collectible electric regulatory program costs to determine the unit charge per megawatt-hour for each category of long-term and short-term transactions. Finally, the Commission multiplied the transaction volume in each category for each public utility by the relevant unit charge per megawatt-hour to determine the annual charges for each assessable public utility.[11]

Public utilities subject to these annual charges were required to submit FERC–582 to the Office of the Secretary by April 30 of each year.[12] The Commission issued bills for annual charges, and public utilities then were required to pay the charges within 45 days of the date on which the Commission issued the bills.[13]

C. Order No. 641

Since the issuance of Order No. 472, in 1987, the Commission explained in Order No. 641, the industry had undergone sweeping changes, and, as the landscape of the industry had changed and continued to change, the nature of the work of the Commission likewise had changed. Order No. 641 reflected these changes—changing the way in which the Commission assesses annual charges to recover its collectible electric regulatory program costs to reflect recent industry and Commission changes, by assessing annual charges to public utilities that provide transmission service based on the volumes of electric energy transmitted.[14]

III. Discussion

On rehearing of Order No. 641, PSE&G makes two arguments. Neither of these arguments, as we explain below, is persuasive. Accordingly, we will deny rehearing.

First, PSE&G argues that Order No. 641 does not collect annual charges in a "fair and equitable" manner. PSE&G argues that, by treating so-called unbundled retail transmission as transmission for purposes of calculating annual charges, those utilities that have unbundled their sales to their retail customers, in whole or in part, so that they are now providing unbundled retail transmission, will pay more in annual charges than those utilities that have not unbundled their sales to their retail customers. PSE&G argues that this is unfair and inequitable.[15]

The Commission finds, however, that there is nothing unfair or inequitable about this. The statutory directive found in the Budget Act is to recover the Commission's costs. Where sales of electric energy to retail customers remain bundled (*i.e.*, the power and transmission components associated with the sale of electric energy to retail customers are provided together, part and parcel, in a single, bundled package), the sale is not subject to Commission review and the Commission incurs no costs associated with its regulation; the sale is regulated by the states. Where sales of electric energy to retail customers have been unbundled (*i.e.*, the power and transmission components are provided as distinct products or services to retail customers), the transmission component—the unbundled retail transmission—is subject to Commission review and the Commission incurs costs associated with its regulation. Unbundled retail transmission is a Commission-jurisdictional transmission service, just like any other Commission-jurisdictional transmission service.[16] It is regulated by the Commission, just as any other Commission-jurisdictional transmission service is regulated by the Commission. And so it should not be excused, but instead should be included in the calculation of annual charges, just as any other Commission-jurisdictional transmission service is reflected in the calculation of annual charges.

It is certainly true that those utilities that have unbundled to a comparatively greater extent than other utilities will be assessed a comparatively greater annual charge than other utilities. That fact, however, merely reflects that they are providing comparatively more Commission-jurisdictional transmission service, and so are comparatively more subject to Commission regulation—and thus will be comparatively more responsible for the Commission's costs. They should, therefore, be assessed a comparatively greater annual charge. They are not, however, thereby being charged a "disproportionate" share of the Commission's costs, as PSE&G claims.[17] In addition, as we explained in Order No. 641, in the past the regulation of transmission bundled with retail power sales was done by the states, and any costs associated with such regulation would have been incurred by state regulatory commissions and would have been subject to the regulatory assessments of those commissions. Now, the regulation of transmission

[8] *Id.* at 7178(f). Congress approves the Commission's budget through annual and supplemental appropriations.

[9] 18 CFR Part 382; *see* Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, Order No. 472, 52 FR 21263 and 24153 (June 5 and 29, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,746 (1987), *clarified*, Order No. 472–A, 52 FR 23650 (June 24, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,750, *order on reh'g*, Order No. 472–B, 52 FR 36013 (Sept. 25, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,767 (1987), *order on reh'g*, Order No. 472–C, 53 FR 1728 (Jan. 22, 1988), 42 FERC ¶ 61,013 (1988).

[10] 18 CFR 382.201; *see* Order No. 472, FERC Stats. & Regs. Regulations Preambles 1986–1990 at 30,612–18; *accord* Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, Order No. 507, 53 FR 46445 (Nov. 17, 1985), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,839 at 31,263–64 (1988); Texas Utilities Electric Company, 45 FERC ¶ 61,007 at 61,027 (1988) (*Texas Utilities*).

[11] 18 CFR 382.201; *see* Annual Charges Under the Omnibus Budget Reconciliation Act of 1986 (Phibro Inc.), 81 FERC ¶ 61,308 at 62,424–25 (1997).

[12] 18 CFR 382.201(b)(4).

[13] *See Texas Utilities*, 45 FERC at 61,026.

[14] Order No. 641, FERC Stats. & Regs. at 31,842; *accord id.* at 31,843–56.

[15] PSE&G Rehearing at 2–5.

[16] *See* Order No. 641, FERC Stats. & Regs. at 31,849 n.51. This jurisdictional determination, made in Order No. 888, was affirmed by the District of Columbia Circuit in *Transmission Access Policy Study Group, et al.* v. *FERC*, 225 F.3d 667, 690–95 (D.C. Cir. 2000), *cert. granted*,—U.S.L.W.—(U.S. Feb. 26, 2001).

[17] PSE&G Rehearing at 3.

associated with unbundled retail power sales will be done by this Commission, and the costs of such regulation will be incurred by this Commission and will appropriately be recovered in the annual charge assessments of this Commission. So, the end result is more a shifting of costs and assessments, rather than an absolute increase.[18]

Second, PSE&G argues that, because the Commission cannot "say exactly how the annual [charges] will be cast among regulated parties," [19] *i.e.,* the Commission cannot identify "the likely impacts of its new [annual charge] allocation method on all utilities," [20] Order No. 641 must be reversed.[21] PSE&G is wrong on several counts, however. Preliminarily, we note that the Commission is not required, contrary to PSE&G's implication, to have perfect information before it acts.[22] Indeed, what PSE&G asks in this regard is contradicted by its own counter-proposal, for which there is no better information and no greater certainty compared to Order No. 641. PSE&G argues that the Commission should adopt "an allocation method based on each utility's or [Regional Transmission Organization's] transmission revenue requirement," [23] but that approach provides no greater certainty of the effect from year to year on any individual utility than the approach adopted in Order No. 641, or, for that matter, the approach used since the late 1980's. Neither PSE&G on rehearing, nor PSE&G and the others with whom it filed in their original comments, provides any explanation or justification of how this proposed allocation method would provide greater certainty.

Moreover, PSE&G's counter-proposal would, in fact, provide no greater certainty. Just as the public utilities' transmission volumes which Order No. 641 uses change from year to year, transmission rates and the underlying transmission revenue requirements on which PSE&G would rely likewise change from year to year—as public utilities file changes in their transmission rates to reflect their changing costs. Similarly, the Commission's costs, the other piece of the annual charges equation, also change from year to year—and the Commission's costs change regardless of whether transmission volumes (per Order No. 641) or transmission revenue requirements (per PSE&G) are used to calculate the annual charge assessments.

In addition, we note that, in their original comments, PSE&G and the others with whom it filed never made the argument that PSE&G advances here—PSE&G and the others never argued that the approach proposed by the Commission must fail because the effect on individual utilities could not be ascertained with certainty in advance.

The approach taken by the Commission, and the Commission's reliance on the factors it has relied on, are, in fact, expressly authorized by the Budget Act and the accompanying Conference Report. As noted above, the Commission is required by section 3401 of the Budget Act to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred . . . in that fiscal year." [24] The Commission thus sets its annual charges to recover its costs, and, as relevant here, thus sets its electric annual charges to recover its collectible electric regulatory program costs.

The annual charges also must be computed based on methods which the Commission determines are "fair and equitable," [25] and the Conference Report accompanying the Budget Act explains that the annual charges "may be reasonably based on" four factors:

> (1) The type of Commission regulation which applies to such person such as gas pipeline or electric utility regulation; (2) the total direct and indirect costs of that type of Commission regulation incurred during such year; (3) the amount of energy—electricity, natural gas, or oil—transported or sold subject to Commission regulation by such person during such year; and (4) the total volume of all energy transported or sold subject to Commission regulation by all similarly situated persons during such year.[26]

These four factors are precisely the factors that the Commission has used in Order No. 641. Order No. 641, per factor (1), distinguishes electric regulation and its costs from gas regulation and its costs.[27] Order No. 641, per factor (2), looks at the Commission's total electric regulatory program costs, and assesses in annual charges those costs not already recovered in filing fees or from the PMAs. Most critically and most relevant here, Order No. 641, per factors (3) and (4), looks, each year, to the total amounts of electric energy transmitted by all jurisdictional public utilities in developing the per unit charge for that year, and then it looks to each individual jurisdictional public utility's transmission in assessing an annual charge to that public utility.[28]

Moreover, the Commission has consistently taken this approach. The Commission in its pre-existing annual charge regulations, adopted in Order No. 472 in the late 1980's, assessed annual charges to public utilities in each year by identifying its collectible electric regulatory program costs to be collected from those utilities, and then identifying the total volume of transactions (at that time, both power sales and transmission) over which those costs would be spread. The results were per unit charges, which the Commission then used to determine (based on each public utility's volume of transactions) the annual charges to be assessed to each public utility.[29]

This same approach is the approach that the Commission continues to employ in Order No. 641. The only difference between what the Commission did before and what the Commission will do now is in the transaction volumes used. Previously, the Commission looked to both power sales and transmission transactions (and also did separate calculations to develop separate per unit charges for long-term and short-term transactions). Now, the Commission will look to *only* transmission transactions (and also will no longer distinguish between long-term and short-term transactions—all transmission transactions, regardless of length, will be treated identically).

The California ISO does not seek rehearing of Order No. 641, but rather seeks clarification. As explained below, we will grant clarification in part.

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[18] Order No. 641, FERC Stats. & Regs. at 31,851.

[19] PSE&G Rehearing at 6.

[20] *Id.* at 7.

[21] *Id.* at 5–7.

[22] United States Department of the Interior v. FERC, 952 F.2d 538, 546 (D.C. Cir. 1992) (Commission is not required "to have perfect information before it takes any action," and such a requirement would be "contrary to the statutory standard that requires [a court] to affirm any [Commission] factual finding supported by substantial evidence" and "[m]ore practically . . . would hamstring the agency;" "[v]irtually every decision must be made under some uncertainty"); *see also* City of New Martinsville, *West Virginia* v. *FERC,* 102 F.3d 567, 572 (D.C. Cir. 1996) ("We recognize that the Commission must often work with incomplete information.").

[23] PSE&G Rehearing at 7. In the original comments cited by PSE&G, *see id.* at 7 nn.15–16, PSE&G and the others with whom it filed proposed basing annual charges "on the relative share of the total transmission revenue requirement * * * of each transmission provider as compared to the total share of the [transmission revenue requirements] of all transmission providers." Comments of Atlantic City Electric Company, *et al.* at 2; *accord id.* at 6–7.

[24] *See supra* note 3 and accompanying text.

[25] *See supra* note 4 and accompanying text.

[26] *See supra* note 6 and accompanying text.

[27] *Accord* Conference Report at 238–39 (1986 U.S.C.C.A.N. at 3883–84).

[28] In fact, the Conference Report also stated that the conferees expected the Commission "to assess annual charges proportionately on the basis of annual sales or volumes transported." Conference Report at 239 (1986 U.S.C.C.A.N. at 3884).

[29] *See supra* notes 9–13 and accompanying text.

The California ISO notes that, under Order No. 641, annual charge assessments can be recovered from transmission customers as a legitimate cost of providing transmission service, but that the specifics of such recovery are left to be addressed by individual public utilities in case-by-case filings with the Commission.[30] The California ISO explains that, because there is uncertainty as to the level of annual charges to be assessed against each individual public utility, and therefore uncertainty as to the design of an appropriate cost-recovery mechanism, the Commission should clarify that individual public utilities may recover annual charges in transmission rates from transmission customers even if there is some uncertainty as to the level of annual charges being assessed against those public utilities, and that annual charges assessed by the Commission may, in turn, be recovered in transmission rates in the year that the charges are billed to those public utilities (even though the annual charges assessed by the Commission are developed using data that reflects the prior year's transactions).[31] The California ISO adds that, as a revenue-neutral, not-for-profit entity that passes through all of its costs to the market participants that use the transmission system it operates, there is a special need for clarification, and that, in the first year that the new annual charge methodology is used, there is likewise a special need for clarification.[32] The California ISO also commits to modify any annual charge cost-recovery mechanism that it proposes "as needed to prevent over- or under-recovery of such costs once it receives the initial assessment of annual charges under the new methodology."[33]

The Commission explained, in Order No. 641, that the purpose of Order No. 641 was to change the methodology by which the Commission assessed annual charges to public utilities, and that the issue of the rate recovery of annual charge assessments by the public utilities to whom they were assessed was a different issue and outside the scope of Order No. 641. The Commission noted that it already had in place regulations that address rate recovery of utility costs, *i.e.*, Part 35 of its regulations, but added that, to allay public utility concerns, it would state in Order No. 641 that the annual charges assessed by the Commission were "costs that can be recovered in transmission rates as a legitimate cost of providing transmission service."[34]

We reaffirm those determinations here. We also note that our regulations provide great flexibility in how public utilities may develop their rates, including their transmission rates. Our regulations provide that rates may be based on data for historical periods, such as the so-called Period I test period, and that rates may also be based on data for future periods, such as the so-called Period II test period.[35] We thus have long allowed rates to be based on estimates, as long as the estimates were reasonable when made.[36] This flexibility is sufficient, we believe, to allow public utilities like the California ISO to recover in their transmission rates for the first year under the new annual charges methodology adopted in Order No. 641, *i.e.*, calendar year 2002, the annual charges that will be assessed by the Commission in that same year, *i.e.*, calendar year 2002 (even though those charges are calculated from transactions that occurred during the preceding year, calendar year 2001).[37] To this extent, therefore, we clarify Order No. 641.

The Commission Orders

PSE&G's request for rehearing is hereby denied, and the California ISO's request for clarification is hereby granted in part, as discussed in the body of this order.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–7001 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–P

[30] California ISO Clarification at 1–2.

[31] *Id.* at 2, 7–8, 11–13. In the alternative, the California ISO objects to Order No. 641 in the absence of additional information concerning the level of annual charges that will be assessed under Order No. 641. *Id.* at 2, 7, 8–11. As noted earlier, annual charges are intended to recover the Commission's collectible electric regulatory program costs (*i.e.*, its total electric regulatory program costs, less any electric filing fees and less the costs of regulating the PMAs). Under Order No. 641, these collectible electric regulatory program costs will now be recovered from public utilities based on transmission volumes (rather than, as in the past, both power sale and transmission volumes). To the extent that the California ISO's pleading may be construed as seeking rehearing of Order 641, its arguments are addressed in the discussion earlier concerning PSE&G's similar arguments.

[32] *Id.* at 6–7, 12.

[33] *Id.* at 12

[34] Order No. 641, FERC Stats. & Regs. at 31,857.

[35] *See* 18 CFR 35.13. *Accord, e.g.*, Revised Requirements for Filing Changes in Electric Rate Schedules, Order No. 91, 45 FR 46,352 (July 10, 1980), FERC Stats. & Regs. Regulations Preambles 1977–1981 ¶ 30,170 at 31,146–48 (1980), *reh'g denied*, Order No. 91–A, 12 FERC ¶ 61,206 (1980).

[36] *E.g.*, New England Power Company, Opinion No. 379, 61 FERC ¶ 61,331 at 62,217 & n.62 (1992), *reh'g denied*, Opinion No. 379–A, 65 FERC ¶ 61,036 (1993), *aff'd*, 53 F.3d 377, 380 (D.C. Cir. 1995); Southern California Edison Company, Opinion No. 359, 53 FERC ¶ 61,408 at 62,415 & n.22 (1990), *reh'g denied*, Opinion No. 359–A, 54 FERC ¶ 61,320 (1991).

[37] Particularly given the California ISO's commitment to modify any annual charge cost-recovery mechanism that it proposes as needed to prevent over- or under-recovery of such costs once it receives the initial assessment of annual charges under this new methodology. *See supra* note 33 and accompanying text.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 00P–1554]

Medical Device; Exemption From Premarket Notification; Class II Devices; Pharmacy Compounding Systems

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing an order granting a petition requesting exemption from the premarket notification requirements for pharmacy compounding systems classified within the intravascular administration set, with certain limitations. This rule will exempt from premarket notification pharmacy compounding systems classified within the intravascular administration set and establishes a guidance document as a special control for this device. FDA is publishing this order in accordance with the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: This rule is effective March 21, 2001.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Public Law 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA (Public Law 101–629)), devices are to be classified

into class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use that is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976, (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations (21 CFR part 807) require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is "substantially equivalent" within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Public Law 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that 1 day after date of publication of the list under section 510(m)(1) of the act, FDA may exempt a device on its own initiative, or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance that the agency issued on February 19, 1998, entitled "Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff." That guidance can be obtained through the Internet on the CDRH home page at http://www.fda.gov/cdrh or by facsimile through CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. Specify "159" when prompted for the document shelf number.

III. Petition

On October 3, 2000, FDA received a petition requesting an exemption from premarket notification for pharmacy compounding systems classified within the intravascular administration set. Pharmacy compounding systems are currently classified under 21 CFR 880.5440 as an intravascular administration set. In the **Federal Register** of December 15, 2000 (65 FR 78494), FDA published a notice announcing that this petition had been received and provided opportunity for interested persons to submit comments on the petition by January 16, 2001. FDA received two comments opposing an exemption from premarket notification for these devices.

These comments objected that these devices presented risks to the patient, who may receive an inaccurate formula due to programming errors. One comment pointed out that the American Society of Hospital Pharmacists (ASHP) recommended that pharmacists should verify that a device they intend to use is cleared by FDA in a 510(k) as evidence of compliance with regulatory requirements. One comment further stated "Class I device exemption would eliminate the requirement for reporting changes in device design, manufacturing and quality control systems for FDA review prior to implementation under the provisions of 21 CFR 807.81(3)(i)." Both comments objected that the petitioner did not establish that the device met FDA criteria for exemption from premarket notification.

FDA disagrees with these comments. These devices will remain in Class II and will be subject to general controls other than premarket notification such as labeling requirements and the quality systems regulation. In addition, in this rule, FDA is establishing a guidance document entitled "Class II Special Controls Guidance Document: Pharmacy Compounding Systems; Final Guidance for Industry and FDA Reviewers" as a special control for this device. This guidance document will address the remaining regulatory requirements for these devices. FDA believes that the remaining general controls and the guidance document will address any risks to health, such as programming errors, presented by these devices. This exemption is limited to the pharmacy compounding system as described, and is also subject to the general limitations on exemptions from premarket notification for therapeutic devices as described in 21 CFR 880.9. Therefore, manufacturers will have to submit premarket notifications for any changes that bring the device outside of the exempt category. FDA does not believe that maintaining a requirement for premarket notification is necessary to ensure compliance with the "existing requirements" referenced in the ASHP publication.

FDA has determined that pharmacy compounding systems classified within the intravascular administration set meet the criteria for exemption from the notification requirements. FDA believes that the requirements outlined in the guidance document will provide reasonable assurance of the safety and effectiveness of these devices.

IV. Electronic Access

In order to receive "Class II Special Controls Guidance Document: Pharmacy Compounding Systems; Final Guidance for Industry and FDA Reviewers" via your fax machine, call the CDRH Facts-on-Demand system at 800–899–0381 or 301–827–0111 from a touchtone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1326) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request. Persons interested in

obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes, "Class II Special Controls Guidance Document: Pharmacy Compounding Systems; Final Guidance for Industry and FDA Reviewers," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at www.fda.gov/cdrh.

V. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612 (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule will relieve a burden and simplify the marketing of these devices, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rules does not contain policies that 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. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 880.5440 is amended by revising paragraph (b) to read as follows:

§ 880.5440 Intravascular administration set.

* * * * *

(b) *Classification.* Class II (special controls). The special control for pharmacy compounding systems within this classification is the FDA guidance document entitled "Class II Special Controls Guidance Document: Pharmacy Compounding Systems; Final Guidance for Industry and FDA Reviewers." Pharmacy compounding systems classified within the intravascular administration set are exempt from the premarket notification procedures in subpart E of this part and subject to the limitations in § 880.9.

Dated: March 12, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–6938 Filed 3–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska–01–001]

RIN 2115–AA97

Safety Zone; Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, AK

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; Correction.

SUMMARY: The Coast Guard published in the **Federal Register** of March 19, 2001, a document establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The effective date of the safety zone has changed from March 23, 2001 to March 22, 2001. This correction changes that date.

DATES: This temporary final rule is effective on March 22, 2001.

ADDRESSES: The public docket for this rulemaking is maintained by Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Materials in the public docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage. Normal office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Rick Rodriguez, Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION: The Coast Guard published a document, in the **Federal Register** of March 19, 2001 (66 FR 15350) establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska, effective March 23, 2001. The effective date has changed to March 22, 2001 due to a late revision of the rocket launch date. This correction changes the beginning effective date of March 23, 2001 to March 22, 2001.

§ 165.T17–012 [Corrected]

In rule FR Document 01–6740 published on March 19, 2001 (66 FR 15350) make the following corrections. On page 15350, in the 2nd column under *Background and Purpose,* remove the date "March 23, 2001" and add the

date "March 22, 2001". On page 15350, in the 3rd column under *Discussion of Regulation*, remove the date "March 23, 2001" and add the date "March 22, 2001". On page 15351, in the 3rd column under amendatory instruction 2, in paragraph (b), remove the date "March 23, 2001" and add the date "March 22, 2001".

Dated: March 19, 2001.

H.M. Hamilton,

Commander, U.S. Coast Guard, Captain of the Port, Western Alaska, Acting.

[FR Doc. 01–7114 Filed 3–20–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Marine Corps Restricted Area, New River, North Carolina, and Vicinity

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which established restricted areas in the waters of New River, North Carolina, and vicinity to include restricted areas for United States Marine Corps Waterborne Refueling Training Operation in the Morgan Bay Sector, Farnell Bay Sector, and Grey Point Sector. Refueling operations will occur approximately fourteen times a year. Small craft will be refueled with unleaded gasoline or diesel fuel from a tactical bulk refueling system loaded onto a floating platform or vessel. The purpose is for the Marine Corps to gain proficiency in refueling operations and associated activities in riverine environments. The restricted area previously served as a firing range; but there were not provisions for refueling operations. The changes to the regulation are necessary to safeguard Marine Corps vessels, ribbon bridges, and United States Government facilities from sabotage and other subversive acts, accidents, or other incidents of similar nature. These changes are also necessary to protect the public from potentially hazardous conditions which may exist as a result of the Marine Corps use of the area.

EFFECTIVE DATE: April 20, 2001.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Dr. G. Wayne Wright , Corps of Engineers, Wilmington District, at 910–251–4467.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat 892 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR Part 334.440.

Procedural Requirements

a. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small Governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

e. Submission to Congress and the GAO

Pursuant to Section 801(a) (1) (A) of the Administrative Procedure Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804 (2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Restricted areas, Navigation (water), Transportation, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR Part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.440 is amended by adding paragraph (c)(6) to read as follows:

§ 334.440 New River, NC, and vicinity; Marine Corps firing ranges.

(c) * * *

(6) No person shall enter or remain within a 2 acre area surrounding a waterborne refueling training operation, in either the Grey Point Sector, Farnell Bay Sector, or Morgan Bay Sector as described in paragraph (b) of this section, for the duration of the training operation after a notice to conduct a waterborne refueling training operation has been published in the local notice to mariners and has been broadcast over the Marine Band radio network. The 2 acre area surrounding a waterborne refueling training operation will be patrolled and persons and vessels shall clear the area under patrol upon being warned by the surface patrol craft.

* * * * *

Dated: March 5, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–7043 Filed 3–20–01; 8:45 am]

BILLING CODE 3710–65–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 441 and 483

[HCFA–2065–F]

RIN 0938–AJ96

Medicare Program; Use of Restraint and Seclusion in Residential Treatment Facilities Providing Inpatient Psychiatric Services to Individuals Under Age 21: Delay of Effective Date

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the January 24, 2001 **Federal Register**, this action temporarily delays for 60 days the effective date of the interim final rule entitled "Use of Restraint and Seclusion in Residential Treatment Facilities Providing Inpatient Psychiatric Service to Individuals Under Age 21" published in the January 22, 2001 **Federal Register** (66 FR 7148). That interim final rule establishes a definition of a "psychiatric residential treatment facility" that is not a hospital and that may furnish covered Medicaid inpatient psychiatric services for individuals under age 21. This rule also sets forth a Condition of Participation that psychiatric residential treatment facilities that are not hospitals must meet to provide, or to continue to provide, the Medicaid inpatient psychiatric services benefit to individuals under age 21. The effective date of that rule, which would have been March 23, 2001, is now May 22, 2001. The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. section 553(b)(3)(a). Alternatively, HCFA's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. section 553(b)(3)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary, and contrary to the public interest. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest, in the orderly promulgation and implementation of regulations.

DATES: The effective date of the interim final rule amending 42 CFR parts 441 and 483 published in the January 22, 2001 **Federal Register** (66 FR 7148), is delayed 60 days, from March 23, 2001 to a new effective date of May 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Kay Mullen, (410) 786–5480.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program).

Dated: February 27, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Approved: January 14, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–7033 Filed 3–20–01; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcast Services

CFR Correction

In Title 47 of the Code of Federal Regulations, Parts 70 to 79, revised as of October 1, 2000, on page 278, part 73 is corrected by adding § 73.1020 as set forth below:

§ 73.1020 Station license period.

(a) Initial licenses for broadcast stations will ordinarily be issued for a period running until the date specified in this section for the State or Territory in which the station is located. If issued after such date, it will run to the next renewal date determined in accordance with this section. Both radio and TV broadcasting stations will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience and necessity will be served thereby, it may issue either an initial license or a renewal thereof for a lesser term. The time of expiration of normally issued initial and renewal licenses will be 3 a.m., local time, on the following dates and thereafter at 8-year intervals for radio and TV broadcast stations located in:

(1) Maryland, District of Columbia, Virginia and West Virginia:

(i) Radio stations, October 1, 1995.

(ii) Television stations, October 1, 1996.

(2) North Carolina and South Carolina:

(i) Radio stations, December 1, 1995.

(ii) Television stations, December 1, 1996.

(3) Florida, Puerto Rico and the Virgin Islands:

(i) Radio stations, February 1, 1996.

(ii) Television stations, February 1, 1997.

(4) Alabama and Georgia:

(i) Radio stations, April 1, 1996.

(ii) Television stations, April 1, 1997.

(5) Arkansas, Louisiana and Mississippi:

(i) Radio stations, June 1, 1996.

(ii) Television stations, June 1, 1997.

(6) Tennessee, Kentucky and Indiana:

(i) Radio stations, August 1, 1996.

(ii) Television stations, August 1, 1997.

(7) Ohio and Michigan:

(i) Radio stations, October 1, 1996.

(ii) Television stations, October 1, 1997.

(8) Illinois and Wisconsin:

(i) Radio stations, December 1, 1996.

(ii) Television stations, December 1, 1997.

(9) Iowa and Missouri:

(i) Radio stations, February 1, 1997.

(ii) Television stations, February 1, 1998.

(10) Minnesota, North Dakota, South Dakota, Montana and Colorado:

(i) Radio stations, April 1, 1997.

(ii) Television stations, April 1, 1998.

(11) Kansas, Oklahoma and Nebraska:

(i) Radio stations, June 1, 1997.

(ii) Television stations, June 1, 1998.

(12) Texas:

(i) Radio stations, August 1, 1997.

(ii) Television stations, August 1, 1998.

(13) Wyoming, Nevada, Arizona, Utah, New Mexico and Idaho:

(i) Radio stations, October 1, 1997.

(ii) Television stations, October 1, 1998.

(14) California:

(i) Radio stations, December 1, 1997.

(ii) Television stations, December 1, 1998.

(15) Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington:

(i) Radio stations, February 1, 1998.

(ii) Television stations, February 1, 1999.

(16) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont:

(i) Radio stations, April 1, 1998.

(ii) Television stations, April 1, 1999.

(17) New Jersey and New York:

(i) Radio stations, June 1, 1998.

(ii) Television stations, June 1, 1999.

(18) Delaware and Pennsylvania:

(i) Radio stations, August 1, 1998.

(ii) Television stations, August 1, 1999.

(b) For the cutoff date for the filing of applications mutually exclusive with renewal applications that are filed on or before May 1, 1995 and for the deadline for filing petitions to deny renewal applications, see § 73.3516(e).

(c) The license of a broadcasting station that fails to transmit broadcast signals for any consecutive 12-month period expires as a matter of law at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))

[49 FR 4382, Feb. 6, 1984, as amended at 52 FR 25604, July 8, 1987; 59 FR 63051, Dec. 7, 1994; 61 FR 18291, Apr. 25, 1996; 61 FR 28767, June 6, 1996; 62 FR 5347, Feb. 5, 1997]

[FR Doc. 01–55508 Filed 3–20–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–626; MM Docket No. 00–70; RM–9843]

Radio Broadcasting Services; Key West, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 244A to Key West, Florida, in response to a petition filed by Adolphus Warfield, Inc. *See* 65 FR 30046, May 10, 2000. The coordinates for Channel 244A at Key West are 24–33–06 NL and 81–47–48 WL. A filing window for Channel 244A at Key West will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–70, adopted February 28, 2001, and released March 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 244A at Key West.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–6971 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–627; MM Docket No. 00–145; RM–9845]

Radio Broadcasting Services; Lowry City, Missouri

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 285A to Lowry City, Missouri, in response to a petition filed by Bott Communications, Inc. *See* 65 FR 53690, September 5, 2000. The coordinates for Channel 285A at Lowry City are 38–02–24 NL and 93–38–28 WL. A filing window for Channel 285A at Lowry City will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–145, adopted February 28. 2001, and released March 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Lowry City, Channel 285A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–6970 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 010119023–1062–02; I.D. 121900A]

RIN 0648–AO80

Pacific Halibut Fisheries; Catch Sharing Plans

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

ACTION: Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plans.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces the approval of modifications to the Catch Sharing Plan (CSP) for Area 2A and implementing

regulations for 2001. These actions are intended to enhance the conservation of the Pacific halibut stock and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

DATES: Effective March 15, 2001.

ADDRESSES: NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668; or NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115–0070 (http://www.nwr.noaa.gov).

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907–586–7462 or Yvonne deReynier, 206–526–6140.

SUPPLEMENTARY INFORMATION: The IPHC has promulgated regulations governing the Pacific halibut fishery in 2001, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). The IPHC regulations have been approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2001 IPHC annual management measures are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements.

The IPHC held its annual meeting in Vancouver, B.C., on January 22–25, 2001, and adopted regulations for 2001. The substantive changes to the previous IPHC regulations (65 FR 14909, March 20,2000) include the following.

1. New catch limits for all areas.

2. Establishment of opening dates for the Area 2A commercial directed halibut fishery.

3. Licensing change - The Area 2A licensing regulations remained the same as in 2000, with the exception that vessels fishing in the incidental halibut fishery concurrent with the sablefish fishery north of Point Chehalis are also required to get a commercial license from the IPHC.

4. Logbooks - In the United States, vessels with an overall length over 25 ft (7.6 meters (m)) fishing for halibut are required to keep halibut fishing information in a logbook. A regulatory change for 2001 provides for using an Alaska Department of Fish & Game (ADF&G) Longline-Port fishery logbook as a fourth option to the logbook options previously allowed, which include: (1) NMFS' catcher vessel daily fishing logbook, (2) Alaska hook-and-line sablefish logbook, and (3) the logbook issued by IPHC.

Other logbook regulation changes include an IPHC requirement that the logbook be kept on the vessel until the offload is completed, instead of 5 days after the offload as previously required. The regulations will also require more specific data in the logbook.

5. Halibut weight records - The regulations have been changed to clarify that total halibut weight be recorded on both State and Federal catch records, not one or the other, in the United States.

6. Nazan Bay - The IPHC approved Nazan Bay on Atka Island as an additional port where Area 4A clearance prior to fishing can be obtained.

7. Clearance forms - A new requirement in 2001 will be that the clearance forms must be signed.

In addition, this action implements the CRP for regulatory Area 2A. This CRP was developed by the PFMC under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention (Convention) between the United States and Canada, and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in United States Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the PFMC to allocate halibut catches should such allocation be necessary.

Catch Sharing Plan for Area 2A

The PFMC's Area 2A CSP allocates the halibut catch limit for Area 2A among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in and off the States of Washington, Oregon, and California. Under the CSP, 35 percent of the Area 2A total allowable catch (TAC) is allocated to Washington treaty Indian tribes in Subarea 2A-1, and 65 percent is allocated to non-treaty fisheries in Area 2A. Treaty fisheries are divided into commercial fisheries, and ceremonial and subsistence fisheries. The allocation to non-treaty fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The non-treaty commercial allocation is further divided between a directed longline fishery (85 percent) and an incidental catch allowance in the salmon troll fishery (15 percent). The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18" N. lat.), Oregon and California. For the first time, in 2001 the overall Area 2A TAC is high enough to allow an incidental catch of halibut north of 46°53'18" N. lat. in the regular, fixed-gear sablefish fishery. This fishery will not begin until early August; the PFMC will make recommendations at its April and June meetings on managing the incidental catch of halibut in the directed sablefish fishery. The CSP also divides the sport fisheries into seven geographic areas each with separate allocations, seasons, and bag limits.

For 2001, PFMC recommended changes to the CSP to modify the Pacific halibut commercial and sport fisheries in Area 2A in 2001 and beyond, pursuant to recommendations from the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW). The purpose of these changes is to improve non-treaty commercial fisheries management by providing a clear separation of quota and seasons for the directed commercial fishery and the incidental halibut landings in the salmon troll fishery. Modifications to sport fishery management off the southern coast of the State of Washington should increase management flexibility for regulators and fishery participants.

A complete description of the PFMC-recommended changes to the CSP, notice of a draft Environmental Assessment and Regulatory Impact Review (EA/RIR), and proposed sport fishery management measures were published in the **Federal Register** on March 6, 2001 (66 FR 13480) with a request for public comments by March 9, 2001. No public comments were received. Therefore, NMFS has approved the changes to the CSP as proposed, made a finding of no significant impact, and finalized the EA/RIR. Copies of the complete CSP for Area 2A as modified and the final EA/RIR are available from the NMFS Northwest Regional Office (see ADDRESSES).

In accordance with the CSP, the WDFW and the ODFW held public workshops (after the IPHC set the Area 2A quota) on February 2 and 13, 2001,

to develop recommendations on the opening dates and weekly structure of the sport fisheries. The WDFW and ODFW sent letters to NMFS discussing the outcome of the workshops and provided the following recommendations on the opening dates and season structure for the sport fisheries.

WDFW recommended a May 17 to July 22 season, 5 days per week (closed Tuesday and Wednesday) for the Puget Sound subarea sport fishery. The recommended number of fishing days is based on an analysis of past harvest patterns in this fishery and meets the requirements of the CSP for this subarea. For the Washington North Coast subarea, WDFW has recommended a season opening May 1 and continuing until the May-June sub-quota is taken, 5 days per week (closed Sunday and Monday), and a second season for July 1-4, with a possibility of re-opening this subarea if sufficient quota remains after July 4. For the Washington South Coast subarea, WDFW has recommended a season opening May 1 and continuing until the quota is taken, 5 days per week (closed Friday and Saturday) in the offshore area and 7 days per week in the nearshore area. WDFW recommendations for both the North Coast and South Coast Washington subareas meet the requirements of the CSP.

Both WDFW and ODFW have recommended opening the Columbia River subarea on May 1 and continuing the season until the quota has been reached, 7 days per week. This recommended season meets the requirements of the CSP.

ODFW recommended starting the nearshore fishery in the Oregon Central Coast and South Coast subareas, on May 1 and continuing the season until the sub-quota for that fishery is taken, 7 days per week. For the all-depth fisheries in those subareas, ODFW recommended a 4-day season of May 11, 12, 18, and 19, based on an analysis of past harvest rates, which indicated a increasing annual trend in this sport fishery. ODFW further recommended a 2-day August all-depth season from August 3 to 4. If the May season does not take the entire May sub-quota for these subareas, ODFW recommended additional opening dates on June 8 and/or June 9. If the August season does not take the entire August sub-quota for these subareas, ODFW recommended additional opening dates on August 17 and/or 18, and September 21 and/or 22. These recommendations meet the requirements of the CSP for these subareas.

For the southernmost subarea, south of Humbug Mountain, OR, ODFW recommended opening this subarea on May 1 and continuing the season until the quota has been reached, 7 days per week. This recommended season meets the requirements of the CSP.

NMFS has implemented sport fishing management measures in Area 2A based on recommendations from the states in accordance with the CSP.

Annual Halibut Management Measures

The annual management measures for the 2001 Pacific halibut fishery that follow are identical to those recommended by the IPHC and approved by the Secretary of State.

2001 Pacific Halibut Fishery Regulations

Regulations Respecting the Convention Between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea

1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Interpretation

(1) In these Regulations,

(a) *Authorized officer* means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Division of Fish and Wildlife Protection (ADFWP), United States Coast Guard (USCG), Washington Department of Fish and Wildlife, and the Oregon State Police;

(b) *Authorized clearance personnel* means an authorized officer of the United States, a representative of the Commission, or a designated fish processor;

(c) *Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(d) *Commercial fishing* means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered;

(e) *Commission* means the International Pacific Halibut Commission;

(f) *Daily bag limit*means the maximum number of halibut a person may take in any calendar day from Convention waters;

(g) *Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(h) *Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(i) *Land*, with respect to halibut, means the offloading of halibut from the catching vessel;

(j) *License* means a halibut fishing license issued by the Commission pursuant to section 3;

(k) *Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

(l) *Operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(m) *Overall length of a vessel* means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(n) *Person* includes an individual, corporation, firm, or association;

(o) *Regulatory* area means an area referred to in section 6;

(p)*Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(q) *Sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

(r) *Tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the National Ocean Service or the Canadian Hydrographic Service.

(3) In these Regulations all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

3. Licensing Vessels

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A, unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for one of the following, but not both:

(a) The directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 and the incidental catch fishery during the sablefish fishery specified in paragraph (3) of section 8; or

(b) The incidental catch fishery during the salmon troll fishery specified in paragraph (4) of section 8.

(5) A license issued in respect of a vessel referred to in paragraph (1) must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee, from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(7) A vessel operating in the directed commercial fishery or the incidental commercial fishery during the sablefish fishery in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 P.M. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(11) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in Title 15, Code of Federal Regulations, part 904.

4. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a)Will not result in exceeding the catch limit established preseason for each regulatory area;

(b) Is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and;

(c) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) Closed areas;

(b) Fishing periods;

(c) Fishing period limits;

(d) Gear restrictions;

(e) Recreational bag limits;

(f) Size limits; or

(g) Vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, Provincial fishery officials, and the media.

5. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(2) Sections 6 to 21 apply to commercial fishing for halibut.

(3) Section 7 applies to the Community Development Quota (CDQ) fishery in Area 4E.

(4) Section 22 applies to the United States treaty Indian tribal fishery in Area 2A-1.

(5) Section 23 applies to sport fishing for halibut.

(6) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

6. Regulatory Areas

The following areas shall be regulatory areas for the purposes of the Convention:

(1) Area 2A includes all waters off the States of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′57″ N. lat., 136°38′18″ W. long.) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′00″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154°08′44″ W. long.), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;

(7)Area 4B includes all waters i n the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20′00″ N. lat.;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat.

7. Fishing in Regulatory Area 4E

(1) A person may retain halibut taken with setline gear in the Area 4E CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(2) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E CDQ fishery must report to the Commission the total number and weight of undersized halibut taken and retained

by such persons pursuant to section 7, paragraph (1). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to December 1 of the year in which such halibut were harvested.

(3) Section 7 shall be effective until December 31, 2001.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed fishery[1] shall begin at 0800 hours and terminate at 1800 hours local time on June 27, July 11, July 25, August 8, August 22, and September 5, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery[2] is authorized during the sablefish seasons in Area 2A in accordance with regulations promulgated by the National Marine Fisheries Service (NMFS).

(4) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS.

(5) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 15 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(6) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6)A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved referred to in paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. lat., 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N. lat. and 54°49′00″ N. lat. are closed to commercial halibut fishing.

11. Catch Limits

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

CATCH LIMITS

Regulatory Area	Pounds	Metric tons
2A: Directed commercial and incidental commercial during salmon troll fishery	226,972	102.9
2A: Incidental commercial during sablefish fishery	47,946	21.7
2B	10,510,000	4,766.4
2C	8,780,000	3,981.9
3A	21,890,000	9,927.4
3B	16,530,000	7,496.6
4A	4,970,000	2,254.0
4B	4,910,000	2,226.8
4C	2,030,000	920.6
4D	2,030,000	920.6
4E	390,000	176.9

(2) Notwithstanding paragraph (1), regulations pertaining to the division of the Area 2A catch limit between the directed commercial fishery and the incidental catch fishery as described in paragraph (4) of section 8 will be promulgated by NMFS and published in the **Federal Register**.

(3) The Commission shall determine and announce to the public the specific dates during which the directed fishery will be allowed in Area 2A and the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas (IVQ) assigned by Canada's Department of Fisheries

[1] The directed fishery is restricted to waters that are south of Point Chehalis, WA (46°53′18″ N. lat.) under regulations promulgated by NMFS and published in the **Federal Register**

[2] The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, WA (46°53′18″ N. lat.) under regulations promulgated by NMFS and published in the **Federal Register**.

and Oceans are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas (IFQ) and all CDQ issued by NMFS have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3), and (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

12. Fishing Period Limits

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on state fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on

(a) the vessel's overall length in feet and associated length class;

(b) the average performance of all vessels within that class; and

(c) the remaining catch limit.

(6) Length classes are shown in the following table:

Overall Length	Vessel Class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56+	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. Size Limits

(1) No person shall take or possess any halibut that

(a) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person shall possess on board a vessel a halibut filleted or a halibut that has been mutilated, or otherwise disfigured in any manner that prevents the determination of whether the halibut complies with the size limits specified in this section, except that:

(a) This paragraph shall not prohibit the possession on board a vessel of halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at Title 50, Code of Federal Regulations, part 679; and

(b) Fillets from halibut that have been offloaded in accordance with section 17 may be possessed on board a vessel in the port of landing up to 1800 hours local time on the calendar day following the offload.

14. Careful Release of Halibut

All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by

(a) Hook straightening;

(b) Cutting the gangion near the hook; or

(c) Carefully removing the hook by twisting it from the halibut with a gaff.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the unloading of any halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the Commission form documenting that a clearance was obtained, except that when the clearance is obtained via very high frequency (VHF) radio referred to in paragraphs 5, 8, and 9, the authorized clearance personnel must sign the Commission form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor or Akutan, AK, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, AK, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(5) The vessel clearance required under paragraph (1) prior to fishing in Area 4C or 4D may be obtained only at St. Paul or St. George, AK, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, AK, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(8) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, AK, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(9) Before unloading any halibut caught in Area 4C or 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or

Akutan, AK, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, AK, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, but must comply with the following requirements:

(a) The operator of the vessel must obtain a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island, AK, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island, AK, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) Before unloading any halibut from Area 4, the vessel operator must obtain a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island, AK, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island, AK, can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(12) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(13) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Area 4C and lands its total annual halibut catch at a port within Area 4C is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that is used to fish for halibut only in Areas 4D and 4E and lands its total annual halibut catch at a port within Areas 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

16. Logs

(1) The operator of any United States vessel fishing for halibut that has an overall length of 26 ft (7.9 m) or greater shall maintain an accurate log of halibut fishing operations in the Groundfish/IFQ Daily Fishing Longline and Port Gear Logbook provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fisherman's Association, or the Alaska Department of Fish and Game (ADF&G) longline-pot logbook, or the logbook provided by the Commission.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) The name of the vessel and the state vessel number (ADF&G) or Washington Department of Fish and Wildlife or Oregon Department of Fish and Wildlife or California Department of Fish vessel number);

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or daily;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of 2 years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offlanding of all halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental halibut fishery in Area 2A defined in paragraph (4) of section 8.

(5) The operator of any Canadian vessel fishing for halibut shall maintain an accurate log recorded in the British Columbia Halibut Fishery logbook provided by the Department of Fisheries and Oceans (DFO).

(6) The logbook referred to in paragraph (5) must include the following information:

(a) The name of the vessel and the DFO's vessel number;

(b) The date(s) upon which the fishing gear is set or retrieved;

(c) The latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or daily;

(d) The number of skates deployed or retrieved, and number of skates lost; and

(e) The total weight or number of halibut retained for each set or day.

(7) The logbook referred to in paragraph (5) shall be

(a) Maintained on board the vessel;

(b) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) Retained for a period of 2 years by the owner or operator of the vessel;

(d) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed;

(f) Mailed to the DFO (white copy) within 7 days of offloading; and

(g) Mailed to the Commission (yellow copy) within seven days of the final offload if not collected by a Commission employee.

(6) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24 hours of offloading.

(7) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut from a United States vessel that does not have on board the license required by section 3.

(2) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(3) It shall be the responsibility of a vessel operator who lands halibut to continuously and completely offload at a single offload site all halibut on board the vessel.

(4) A registered buyer (as that term is defined in regulations promulgated by NMFS and codified at Title 50, Code of Federal Regulations, part 679) who receives halibut harvested in IFQ and CDQ fisheries in Areas 2C, 3A, 3B, 4A,

4B, 4C, 4D, and 4E, directly from the vessel operator who harvested such halibut must weigh all the halibut received and record the following information on Federal catch reports: date of offload; name of vessel; vessel number; scale weight obtained at the time of offloading, including the weight (in pounds) of halibut purchased by the registered buyer, the weight (in pounds) of halibut offloaded in excess of the IFQ or CDQ, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(5) The first recipient, commercial fish processor, or buyer in the United States who purchases or receives halibut directly from the vessel operator who harvested such halibut must weigh and record all halibut received and record the following information on state fish tickets: the date of offload, vessel number, total weight obtained at the time of offload including the weight (in pounds) of halibut purchased, the weight (in pounds) of halibut offloaded in excess of the IFQ, CDQ, or fishing period limits, the weight of halibut (in pounds) retained for personal use or for future sale, and the weight (in pounds) of halibut discarded as unfit for human consumption.

(6) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date, locality, name of vessel, the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased; pounds in excess of IVQs; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(7) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (4), (5), and (6) of section 17.

(8) A copy of the fish tickets or catch reports referred to in paragraphs (4), (5), and (6) shall be

(a) Retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) Open to inspection by an authorized officer or any authorized representative of the Commission.

(9) No person shall possess any halibut that he/she knows to have been taken in contravention of these Regulations.

(10) When halibut are delivered to other than a commercial fish processor, the records required by paragraph (5) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (8).

(11) It shall be unlawful to enter a Commission license number on a state fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in Regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board when required by NMFS regulations[3] published at Title 50, Code of Federal Regulations, § 679.7(f)(4); and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel at the same time providing the operator of the vessel:

(a) Has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(b) Can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and if halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut.

[3] Without an observer, a vessel cannot have on board more halibut than the IFQ for the area that is being fished even if some of the catch occurred earlier in a different area.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) The vessel's name;

(b) The vessel's state license number; or

(c) The vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least 4 inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be

(a) Floating and visible on the surface of the water; and

(b) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) Made a landing and completely offloaded its entire catch of other fish; or

(b) Submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain and possess, but not sell or barter, halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NMFS.

20. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut:

(a) May be retained for personal use; or

(b) May be sold if it complies with the provisions of section 13, Size Limits.

21. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in subarea 2A-1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NMFS and published in the **Federal Register**.

(2) Subarea 2A-1 includes all waters off the coast of Washington that are north of 46°53′18″ N. lat. and east of 125°44′00″ W. long., and all inland marine waters of Washington.

(3) Commercial fishing for halibut in subarea 2A-1 is permitted with hook and line gear from March 15 through November 15, or until 406,500 lb (184.4 metric tons (mt)) is taken, whichever occurs first.

(4) Ceremonial and subsistence fishing for halibut in subarea 2A-1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 17,500 lb (7.9 mt).

23. Sport Fishing for Halibut

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) In all waters off Alaska:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(3) In all waters off British Columbia:

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(4) In all waters off the States of California, Oregon, and Washington:

(a) The total allowable catch of halibut shall be limited to 214,110 lb (97.1 mt) in waters off Washington and 226,972 lb (102.9 mt) in waters off California and Oregon;

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in Section 24. All sport fishing in Area 2A (except for fish caught in the North Washington coast area and landed into Neah Bay) is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) In Puget Sound and United States waters in the Strait of Juan de Fuca, east of a line extending from 48°17′30″ N. lat., 124°23′70″ W. long. north to 48°24′70″ N. lat., 124°23′10″ W. long., there is no quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lb (26 mt).

(A) The fishing season is May 17 through July 22, 5 days a week (Thursday through Monday).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31′ 42″ N. lat.), the quota for landings into ports in this area is 108,030 lb (49 mt). Landings into Neah Bay of halibut caught in this area will be governed by this paragraph.

(A) The fishing seasons are:

(*1*) Commencing May 1 and continuing 5 days a week (Tuesday through Saturday) until 88,030 lb (39.9 mt) are estimated to have been taken and the season is closed by the Commission, or until June 30, whichever occurs first.

(*2*) From July 1 through July 4, and continuing thereafter for 5 days a week (Tuesday through Saturday) until the overall area quota of 108,030 lb (49 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A portion of this area about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°18′00″ N. lat., 125°11′00″ W. long.; 48°18′00″ N. lat., 124°59′00″ W. long.; 48°04′00″ N. lat., 125°11′00″ W. long.; and, 48°04′00″ N. lat., 124°59′00″ W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38′10″ N. lat.), the quota for landings into ports in this area is 42,739 lb (19.4 mt).

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters, and commences on May 1 and continues 7 days a week in the area from Queets River south to 47°00′00″ N. lat. and east of 124°40′00″ W. long., until 42,739 lb (19.4 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46′00″ N. lat.), the quota for landings into ports in this area is 10,487 lb (4.8 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 10,487 lb (4.8 mt) are estimated to have been taken and the area is closed by the Commission, whichever occurs first.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(v) In the area off Oregon between Cape Falcon and the Siuslaw River at the Florence north jetty (44°01′08″ N. lat.), the quota for landings into ports in this area is 199,803 lb (90.6 mt).

(A) The fishing seasons are:

(*1*) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered, 18580, and 18600, or until the combined subquotas of the north central and south central

inside 30-fathom fisheries (17,150 lb (7.8 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 11, 12, 18, and 19. The projected catch for this season is 135,866 lb (61.6 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 8 and/or 9. If a decision is made inseason by NMFS to allow fishing on either of these additional dates, notice of the opening will be announced on NMFS' hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on NMFS' hotline.

(*3*) The third season is open on August 3 and/or 4 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 198,473 lb (90 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 3 and/or 4. If the harvest during this opening does not achieve the 198,473 lb (90 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening date will be August 17 and/or 18, or September 21 and/or 22. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on NMFS' hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vi) In the area off the State of Oregon between the Siuslaw River at the Florence north jetty and Humbug Mountain, OR (42°40′30″ N. lat.), the quota for landings into ports in this area is 15,820 (7.2 mt).

(A) The fishing seasons are:

(*1*) The first season commences May 1 and continues every day through September 30, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until the combined subquotas of the north central and south central inside 30-fathom fisheries (17,150 lb (7.8 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(*2*) The second season is open on May 11, 12, 18, and 19. The projected catch for this season is 12,656 lb (5.7 mt). If sufficient unharvested catch remains for an additional days fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 8 and/or 9. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on NMFS' hotline.

(*3*) The third season is open on August 3 and/or 4 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 198,473 lb (90 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 3 and/or 4. If the harvest during this opening does not achieve the 198,473 lb (90 mt) quota, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening date will be August 17 and/or 18, or September 21 and/or 22. If a decision is made inseason to allow fishing on one or more of these dates, the reopening date will be announced on NMFS' hotline (206) 526–6667 or (800) 662–9825.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(vii) In the area south of Humbug Mountain, OR (42°40′30≥ N. lat.) and off the State of California coast, there is no quota. This area is managed on a season that is projected to result in a catch of less than 6,809 lb (3.1 mt).

(A) The fishing season will commence on May 1 and continue every day through September 30.

(B) The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(C) The Commission shall determine and announce closing dates to the public for any area in which the subquotas in this Section are estimated to have been taken.

(D) When the Commission has determined that a subquota under paragraph (4)(b) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the CSP for Area 2A, or announced by the Commission.

(5) Any minimum overall size limit promulgated under Commission or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(6) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(8) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

(9) The possession limit for halibut in the waters off the States of Washington, Oregon, and California is the same as the daily bag limit.

(10) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(11) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(12) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(13) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(14) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(15) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(16) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

24. Flexible Inseason Management Provisions in Area 2A

(1) The Regional Administrator, Northwest Region, NMFS, after consultation with the Chairman of the PFMC, Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations.

(a) The action is necessary to allow allocation objectives to be met.

(b) The action will not result in exceeding the catch limit for the area.

(c) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may

take inseason action to transfer any projected unused quota to a State of Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(a) Modification of sport fishing periods;

(b) Modification of sport fishing bag limits;

(c) Modification of sport fishing size limits; and

(d) Modification of sport fishing days per calendar week.

(3) Notice procedures.

(a) Actions taken under this section will be published in the **Federal Register**.

(b) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206-526–6667 or 800–662–9825 (May through September) and by United States Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or United States Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(a) Any action issued under this section is effective onthe date specified in the publication or at the time that the action is filed for public inspection at the Office of the Federal Register, whichever is later.

(b) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed at the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received until a period of 15 days after of the action is published in the **Federal Register**.

(c) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

25. Fishery Election in Area 2A

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(a) The sport fishery under Section 23;

(b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8 and/or the incidental retention of halibut during the regular sablefish fishery described at 50 CFR 660.323(a)(2); or

(c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 23 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed halibut fishery during the fishing periods established in Section 8 and/or retain halibut incidentally taken in the regular sablefish fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the regular sablefish fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in Section 8 and/or retain halibut incidentally taken in the regular sablefish fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in Section 8 in Area 2A.

26. Previous Regulations Superseded

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

Classification

IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, the notice-and-comment and delay-in-effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply to this notice of the effectiveness and content of the IPHC regulations, *Jensen* v. *National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975). Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

This action pertains to a foreign affairs function of the United States; therefore, it is exempt from review under Executive Order (E.O.) 12286.

Catch Sharing Plan for Area 2A

An Environmental Assessment/ Regulatory Impact Review was prepared on the proposed changes to the CSP. NMFS has determined that the proposed changes to the CSP and the management measures implementing the CSP contained in these regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations. At the proposed rule stage, the Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities. No comments were received on the economic implications of the changes to the CSP. Consequently, no regulatory flexibility analysis has been prepared. The Assistant Administrator for Fisheries, NOAA, finds that it is contrary to the public interest to delay the effective date of this rule for 30-days. This rule must be made effective for the opening of the 2001 Pacific halibut fishing season on March 15, 2001.

This action has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 773–773k.

Dated: March 15, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service

[FR Doc. 01–6889 Filed 3–15–01; 3:46 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010313064–1064–01; I.D. 022001C]

RIN 0648–XA64

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Notification of Annual Adjustment to the Northeast Multispecies Fishery Management Plan

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

ACTION: Notification of 2001 target total allowable catch (TAC) levels.

SUMMARY: NMFS establishes target TAC levels for the Northeast multispecies fisheries and announces that the multispecies management measures currently in effect will remain unchanged for the fishing year beginning May 1, 2001.

DATES: Effective May 1, 2001.

ADDRESSES: Copies of the Multispecies Monitoring Committee Report for 2000 may be obtained from the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Policy Analyst, (978) 281–9280, fax (978) 281–9135, e-mail david.gouveia@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northeast Multispecies Fishery Management Plan (FMP) specifies a procedure for setting annual target TAC levels for Georges Bank (GB) cod, GB haddock, GB yellowtail flounder, Gulf of Maine (GOM) cod, Southern New England (SNE) yellowtail flounder and an aggregate TAC for the remaining regulated multispecies. The New England Fishery Management Council's (Council) Multispecies Monitoring Committee (MMC) reviews the best available scientific information, and recommends annual target TAC levels for several key groundfish stocks and management options to achieve the FMP objectives. Adjustment of annual target TAC levels is often necessary to attain the fishing mortality rates (F) specified by Amendment 7 to the FMP to allow cod, haddock, and yellowtail flounder stocks to rebuild and maintain current potential yield for the other regulated multispecies.

The MMC developed recommendations for target TACs for the 2001 fishing year that are consistent with the rebuilding targets specified in Amendment 7 to the FMP (61 FR 27710, May 31, 1996). While the Council revised the overfishing definitions for these stocks in Amendment 9 to the FMP (64 FR 55821, October 15, 1999), it has not yet developed any new rebuilding program associated with those definitions. The Council is developing Amendment 13 to specify new rebuilding programs, but until that time, the Amendment 7 rebuilding targets and F goals are the basis for establishing annual target TACs and any changes to management measures. Calculation of the annual TAC levels is based on the biological reference points of F_{max} for GOM cod and $F_{0.1}$ for the remaining stocks of cod, haddock, and yellowtail flounder. However, as was the case for fishing year 2000, the Council directed the MMC to also estimate the TAC associated with $F_{0.1}$ for GOM cod for reference purposes.

The MMC utilized the assessment results from the Stock Assessment Workshop's Northern Demersal and Southern Demersal Working Groups' 2000 annual report to estimate the target TAC levels for various fish stocks for fishing year 2001. In its report delivered at the November 14–16, 2000, Council meeting, the MMC found that the stock status of GB cod, GB haddock, GB yellowtail flounder, and SNE yellowtail flounder has continued to improve. In 1999, F for these stocks was below the level defined as overfishing and near or below the Amendment 7 F targets. GB haddock and GB yellowtail flounder F values are below the Amendment 7 F targets, while the GB cod and SNE yellowtail F value are slightly above their Amendment 7 F targets. The differences between the projected GB cod and SNE yellowtail flounder F values for 1999 and the F targets, respectively, are not significant. Spawning stock biomass (SSB) has increased for these stocks but, with the exception of GB yellowtail, remains below Amendment 7 SSB thresholds. In general, recruitment through 1999 has been poor for GB cod and SNE yellowtail; near average for GB haddock; and above average for GB yellowtail.

The status of GOM cod is not clear because of the difficulty characterizing discards in the fishery in 1999 and 2000. F declined to 0.78 in 1998, but was still well above the overfishing definition ($F_{20\%}$=0.41) and Amendment 7 F target (F_{max}=0.27). Depending on the magnitude of discards, F in 1999 continued to decline and may have ranged from 0.29 (assuming no discards) to 0.76 (assuming 2,500 metric tons (mt) discards). The MMC report noted that better estimates of F in 1999 and 2000 for GOM cod will be available after the 33rd Stock Assessment Review Committee (SARC 33) in June 2001. The SSB for GOM cod hit a record low in 1998, but increased slightly in 1999 under all discard assumptions. Recruitment for GOM cod has also been poor in 1999 despite early indications that suggest that the 1998 year class is above average.

Based on projected 2001 stock sizes and Amendment 7's F targets, the MMC recommended an increase to the target TAC levels for the 2001 fishing year for GB haddock, GB cod, and GB yellowtail flounder, and a slight decrease for SNE yellowtail flounder. However, because of the uncertainty about 1999 and 2000 discard levels, the MMC could not recommend any changes for target TACs for GOM cod in 2001. The Council voted to use the same target TACs in 2001 as in fishing year 2000 (for F_{max} and $F_{0.1}$) to prevent exploitation from increasing. These target TACs will be used until the updated assessment is available following SARC 33. Maintaining the 2000 GOM cod target TAC also means that the conditional closure of Cashes Ledge in November 2001, and a portion of Massachusetts Bay in January 2002, will be required if preliminary landings data through July 21, 2001, indicate that more than 1.67 million lb (759 mt) of GOM cod have been landed. An aggregate target TAC for the remaining regulated multispecies was not provided in the 2000 MMC annual report.

At its November 2000 meeting, the Council voted to approve the MMC recommendations to increase the target TAC levels for fishing year 2001 for GB cod, GB haddock, GB yellowtail flounder, and SNE yellowtail flounder, and voted to maintain the F_{max} and $F_{0.1}$ target TAC levels from fishing year 2000 as target TAC levels for GOM cod for fishing year 2001. The Regional Administrator, Northeast Region, NMFS, concurs with the Council's recommendations. The target TAC levels for the 2001 fishing year are as follows:

Species/area	2001 Target TAC (metric tons)	2000 Target TAC (metric tons)
Georges Bank cod	4,900	4,145
Georges Bank haddock	11,680	6,252
Georges Bank yellowtail flounder	6,805	4,618
Southern New England yellowtail flounder	949	951
Gulf of Maine cod (F_{max})	1,918	1,918
Gulf of Maine cod ($F_{0.1}$)	1,118	1,118

In addition to setting the target TAC levels, the MMC report generally provides the Council with specific management options and recommendations to keep the target TAC levels from being exceeded. As described here, actual F values for GB cod, GB haddock, GB yellowtail, and SNE yellowtail stocks were near or below the Amendment 7 fishing mortality targets in 1999, and below the level defined as overfishing. The status of GOM cod is less clear because the MMC could not determine the fishing mortality rates in 1999 and 2000.

Because the MMC was directed to develop recommendations for the 2001 fishing year that are consistent with the rebuilding targets specified in Amendment 7, the MMC concluded that current measures should be adequate for the 2001 fishing year to ensure that recommended target TACs for 2001 are not exceeded. The MMC did not recommend any changes to the current measures specific to GOM cod because of the uncertainty of the magnitude of reduction needed to achieve the Amendment 7 objectives (F_{max}). Accordingly, the Council recommended maintaining the 2000 management measures for fishing year 2001. However, as discussed here, the MMC noted that further information, including GOM cod discard levels, is expected to be available after the SARC 33 review in June 2001. Upon completion of SARC 33, further adjustments in management measures may be necessary to meet Amendment 7 objectives for GOM cod.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: March 9, 2001.

Bruce Morehead,

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

[FR Doc. 01–7021 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 55
Wednesday, March 21, 2001

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

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 618, 620

RIN 3052–AC03

Organization; General Provisions; Disclosure to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Proposed rule; comment period extension.

SUMMARY: The Farm Credit Administration (FCA) Board extends the comment period on the proposed rule that would provide procedures for a Farm Credit System (FCS) direct lender association to request a national charter. The FCA Board extends the comment period on the proposed rule for 30 more days so interested parties have additional time to provide comments.

DATES: Please send your comments to us on or before April 20, 2001.

ADDRESSES: You may submit comments via electronic mail to *"reg-comm@fca.gov"* or through the Pending Regulations section of our Web site at *www.fca.gov*. You may also mail or deliver written comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or send them by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Jennifer A. Cohn, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On February 16, 2001, the FCA published a proposed rule that would amend its regulations to provide procedures for requesting national charters. See 66 FR 10639. The proposed rule would also require each association with a national charter to extend sound and constructive credit to eligible and creditworthy customers in its Local Service Area. In addition, the FCA proposed to establish controls through new business planning requirements for an association with a national charter. These new requirements will help strengthen the safety and soundness of the FCS. These requirements will also help ensure that the FCS continues to meet its public policy mission to provide adequate, dependable, and competitive credit and related services to agriculture and rural America. The comment period was scheduled to close on March 19, 2001. In response to several requests, we now extend the comment period for an additional 30 days, so you will have more time to comment.

Dated: March 16, 2001.

Jeanette P. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 01–7047 Filed 3–20–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–271–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Powered By Pratt & Whitney JT9D–7 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes powered by Pratt & Whitney JT9D–7 series engines, that currently requires detailed visual inspections of the lugs on the bulkhead fitting of the rear engine mount, and corrective action, if necessary. The existing AD also specifies optional ultrasonic inspections, which, if accomplished, extend the repetitive interval for the required detailed visual inspections. This action would require accomplishment of the previously optional ultrasonic inspections and, for certain airplanes, rework of the bulkhead fitting of the rear engine mount. The actions specified by the proposed AD are intended to detect and correct bushing migration, corrosion, or cracking of the lugs on the bulkhead fitting of the rear engine mount, which could result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–271–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. 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. 2000–NM–271–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: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

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 2000–NM–271–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. 2000–NM–271–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 25, 2000, the FAA issued AD 2000–18–01, amendment 39–11886 (65 FR 53161, September 1, 2000), applicable to certain Boeing Model 747 series airplanes powered by Pratt & Whitney JT9D–7 series engines, to require inspection of the lugs on the bulkhead fitting of the rear engine mount, and corrective action, if necessary. That action was prompted by a report of cracking of the inboard lug on the bulkhead fitting of the rear engine mount on the number 3 engine pylon on a Boeing Model 747–200B series airplane powered by Pratt & Whitney JT9D–7Q series engines. The requirements of that AD are intended to detect and correct bushing migration, corrosion, or cracking of the lugs on the bulkhead fitting of the rear engine mount, which could result in separation of the engine from the airplane.

Actions Since Issuance of Previous Rule

In the preamble to AD 2000–18–01, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered to require the repetitive ultrasonic inspections for cracking of the lugs on the bulkhead fitting of the rear engine mount, which were described in Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000 (which was referenced as the appropriate source of service information for the actions required by AD 2000–18–01). Those ultrasonic inspections were specified in AD 2000–18–01 as an option that, if accomplished, would extend the repetitive interval for the detailed visual and physical measurement inspections required by that AD. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Explanation of Relevant Service Information

Since the issuance of AD 2000–18–01, the FAA has reviewed and approved Boeing Service Bulletin 747–54A2200, Revision 1, dated February 15, 2001. The procedures described in Revision 1 of the service bulletin for the inspections and interim rework are the same as those described in the original issue of the service bulletin. However, Part 5 of Revision 1 of the service bulletin includes new instructions for rework of the lugs on the bulkhead fitting of the rear engine mount. The rework procedures include a detailed visual inspection of the aft upper engine mount for damage; a Non-Destructive Testing inspection and repair of the aft upper engine mount, if necessary; and rework of the lugs, and installation of new bushings in the lug, on the bulkhead fitting of the rear engine mount. The service bulletin specifies that this rework is eventually necessary on any airplane on which bushing migration is found. This Part 5 rework is optional for airplanes on which no bushing migration, corrosion, or cracking is found; however, doing the rework per Part 5 of the service bulletin resets the compliance threshold for the repetitive detailed visual and ultrasonic inspections for cracking of the lugs on the bulkhead fitting of the rear engine mount. Accomplishment of the actions specified in Revision 1 of the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Change to Requirements of AD 2000–18–01

The requirements of AD 2000–18–01 are restated in this new proposed rule. References to Revision 1 of the service bulletin have been added to provide an additional source of service information for accomplishment of these existing requirements.

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 supersede AD 2000–18–01 to continue to require detailed visual inspections of the lugs on the bulkhead fitting of the rear engine mount, and corrective action, if necessary. The proposed AD would also require accomplishment of the previously optional ultrasonic inspections and, for certain airplanes, rework of the bulkhead fitting of the rear engine mount. The actions would be required to be accomplished per the service bulletin described previously, except as discussed below.

Differences Between Service Bulletin and This Proposed AD

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for certain repair instructions, this AD requires such repair to be done per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Cost Impact

There are approximately 200 airplanes of the affected design in the worldwide fleet. The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD.

The detailed visual inspections that are currently required by AD 2000–18–01 take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $22,560, or $480 per airplane, per inspection cycle.

The new inspections that are proposed in this AD action would take approximately 4 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 new proposed requirements of this AD on U.S. operators is estimated to be $11,280, or $240 per airplane, per inspection cycle.

The cost impact figures discussed above are 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.

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 removing amendment 39–11886 (65 FR 53161, September 1, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000–NM–271–AD. Supersedes AD 2000–18–01, Amendment 39–11886.

Applicability: Model 747 series airplanes powered by Pratt & Whitney JT9D–7 series engines, as listed in Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct bushing migration, corrosion, or cracking of the lugs on the bulkhead fitting of the rear engine mount, accomplish the following:

Restatement of Requirements of AD 2000–18–01:

Repetitive Detailed Visual Inspections

(a) At the later of the times in paragraphs (a)(1) and (a)(2) of this AD, perform a detailed visual inspection for bushing migration, corrosion, or cracking; and a physical measurement inspection using feeler gages for bushing migration; of the lugs on the bulkhead fitting of the rear engine mount, in accordance with Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000, or Revision 1, dated February 15, 2001. Thereafter, repeat the inspection at intervals not to exceed 90 days, until the inspections required by paragraphs (c) and (d) of this AD have been accomplished.

(1) Prior to the accumulation of 10,000 total flight cycles, or within 15 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 90 days after September 18, 2000 (the effective date of AD 2000–18–01, amendment 39–11886).

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Corrective Actions

(b) During any inspection accomplished in accordance with paragraph (a), (c), or (d) of this AD, if bushing migration, corrosion, or cracking is detected, accomplish paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) If light corrosion or bushing migration is found: Prior to further flight, do interim rework in accordance with Part 4 of Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000, or Revision 1, dated February 15, 2001; EXCEPT where the service bulletin specifies to contact Boeing, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(2) If moderate to severe corrosion or any cracking is found: Prior to further flight, rework the lugs on the bulkhead fitting of the rear engine mount in accordance with Part 5 of Boeing Service Bulletin 747–54A2200, Revision 1, dated February 15, 2001, except as provided by paragraph (g) of this AD; or in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD. Such rework resets the compliance threshold for the inspections per paragraphs (c) and (d) of this AD to 15 years or 10,000 flight cycles since rework, whichever is earlier.

New Requirements of This AD

Ultrasonic Inspection—Initial and Repetitive Inspections

(c) At the later of the times in paragraphs (c)(1) and (c)(2) of this AD, except as provided by paragraph (f) of this AD, perform an ultrasonic inspection to detect corrosion or cracking of the lugs on the bulkhead fitting of the rear engine mount, per Part 3 of Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000, or Revision 1, dated February 15, 2001. Thereafter, repeat the ultrasonic inspection described in this paragraph at intervals not to exceed 1,400 flight cycles or 18 months, whichever occurs first.

(1) Prior to the accumulation of 10,000 total flight cycles, or within 15 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 9 months after the effective date of this AD.

Repetitive Detailed Visual and Physical Measurement Inspections

(d) After initial accomplishment of the inspections required by paragraph (c) of this AD, perform repetitive detailed visual inspections for bushing migration, corrosion, or cracking; and physical measurement inspections using feeler gages for bushing migration; of the lugs on the bulkhead fitting of the rear engine mount; per Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000, or Revision 1, dated February 15, 2001. Perform the inspections at the interval stated in paragraph (d)(1) or (d)(2) of this AD, except as provided by paragraph (f) of this AD. Accomplishment of repetitive inspections per this paragraph constitutes terminating action for the inspections required by paragraph (a) of this AD.

(1) If no bushing migration is found during any inspection per this AD, the repetitive interval is not to exceed 1,400 flight cycles or 18 months, whichever occurs first.

(2) If any bushing migration is found during any inspection per this AD, the repetitive interval is not to exceed 180 days, until paragraph (e) of this AD has been done.

On-Condition Rework

(e) If any bushing migration is found during any inspection per this AD, within 30 months after finding the migrated bushing, or within 18 months after the effective date of this AD, whichever occurs later, do rework of the lugs on the bulkhead fitting of the rear engine mount (including a detailed visual inspection of the aft upper engine mount for damage; a Non-Destructive Testing inspection and repair of the aft upper engine mount, as applicable; and rework of the lugs, and installation of new bushings in the lug, on the bulkhead fitting of the rear engine mount) per Part 5 of Boeing Alert Service Bulletin 747–54A2200, Revision 1, dated February 15, 2001. Such rework resets the compliance threshold for the inspections per paragraphs (c) and (d) of this AD to 15 years or 10,000 flight cycles since rework, whichever is earlier.

Optional Rework

(f) Rework of the lugs on the bulkhead fitting of the rear engine mount (including a detailed visual inspection of the aft upper engine mount for damage; a Non-Destructive Testing inspection and repair of the aft upper engine mount, as applicable; and rework of the lugs, and installation of new bushings in the lug, on the bulkhead fitting of the rear engine mount) per Part 5 of Boeing Alert Service Bulletin 747–54A2200, Revision 1, dated February 15, 2001, resets the compliance threshold for the inspections per paragraphs (c) and (d) of this AD to 15 years or 10,000 flight cycles since rework, whichever is earlier.

Exception to Repair Requirement

(g) Where Boeing Alert Service Bulletin 747–54A2200, dated July 7, 2000, or Revision 1, dated February 15, 2001, says to contact Boeing for repair instructions: Before further flight, repair per a method approved by the Manager, Seattle ACO, or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–18–01, Amendment 39–11886, are approved as alternative methods of compliance for corresponding actions in this AD.

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

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

Issued in Renton, Washington, on March 14, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6940 Filed 3–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–410–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A Military) Series Airplanes, and Model MD–10–10F and –30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes, that currently requires repetitive inspections to determine the condition of the lockwires on the forward engine mount bolts and correction of any discrepancies found. That AD also provides for optional terminating actions for the repetitive inspections. This action would require accomplishment of the previously optional terminating actions. This proposal is prompted by a report of discrepant forward engine mount bolts at the number 3 engine. The actions specified by the proposed AD are intended to prevent broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane.

DATES: Comments must be received by May 7, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–410–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. 2000–NM–410–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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

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 2000–NM–410–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. 2000–NM–410–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 29, 1999, the FAA issued AD 95–04–07 R2, amendment 39–11354 (64 FR 54202, October 6, 1999), applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes, to require inspections to determine the condition of the lockwires on the forward engine mount bolts and correction of any discrepancies found. That AD also provides for optional terminating actions for the repetitive inspections. That action was prompted by reports of stretched or broken lockwires on the forward engine mount bolts. The requirements of that AD are intended to prevent broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received a report of discrepant forward engine mount bolts at the number 3 engine on a McDonnell Douglas Model DC–10–30F (KC–10A military) series airplane. Both forward engine mount bolts had broken safety wires and had backed out approximately ¼ inch. This airplane had been only inspected per AD 95–04–07 R2.

The FAA has determined that repetitive inspections to determine the condition of the lockwires on the forward engine mount bolts, as required by AD 95–04–07 R2, do not adequately preclude broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane. However, we find that the optional terminating actions (i.e., installation of retainers on the engine mount bolts of engines 1, 2, or 3, or modification of the forward engine mount bolts for engine 1, 2, or 3; as applicable) specified in that AD do adequately address the identified unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletins DC10–71–159 [for Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes], dated September 6, 1995, and Revision 01, dated July 28, 1997. This service bulletin describes procedures for modification of the forward engine mount bolts of engines 1, 2, and 3, which would eliminate the need for the repetitive inspections. This involves removal of the existing lockwires from the forward engine mount bolts, modification and reidentification of the anti-ice duct, and installation of retainers on the forward engine mount bolts.

The FAA also has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992 [for Model DC–10–30 and –30F (KC–10A military) series airplanes, and Model MD–10–30F series airplanes]. This service bulletin describes procedures for installation of retainers on the engine mount bolts of engines 1, 2, or 3, which would eliminate the need for the repetitive inspections.

Accomplishment of the actions specified in the applicable 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 supersede AD 95–04–07 R2 to continue to require repetitive visual inspections to determine the condition of the lockwires on the forward engine mount bolts and correction of any discrepancies found. The proposed AD also would require accomplishment of the action specified in the applicable service bulletin described previously, which would constitute terminating action for the repetitive inspection requirements.

Explanation of Change to the Applicability of the Existing AD

On May 9, 2000 (i.e., after issuance of AD 95–04–07 R2), the FAA issued a Type Certificate (TC) for McDonnell Douglas Model MD–10–10F and MD–10–30F series airplanes. Model MD–10 series airplanes are Model DC–10 series airplanes that have been modified with an Advanced cockpit. The lockwires on the forward engine mount bolts installed on Model MD–10–10F and MD–10–30F series airplanes (before or after the modifications necessary to meet the type design of a Model MD–10 series airplane) are identical to those on the affected Model DC–10–10, –15, –30, and –30F (KC–10 military) series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition. In addition, the manufacturer's fuselage number and factory serial number are not changed during the conversion from a Model DC–10 to Model MD–10. Although Model DC–10–10F and MD–10–30F series airplanes were not specifically identified by model in the applicability of AD 95–04–07 R2, they were affected by that AD. Therefore, the applicability of the proposed AD also includes Model MD–10–10F and MD–10–30F series airplanes.

Cost Impact

There are approximately 389 Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 229 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 95–04–07 R2, and

retained in this proposed AD, take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $27,480, or $120 per airplane, per inspection cycle.

Should an operator be required to accomplish the proposed terminating installation specified in McDonnell Douglas DC–10 Service Bulletin 71–133, it would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per hour. Required parts would cost between $2,744 and $2,822 per airplane. Based on these figures, the cost impact of the terminating installation proposed by this on U.S. operators is estimated to be between $2,984 and $3,062 per airplane.

Should an operator be required to accomplish the terminating modification specified in McDonnell Douglas Service Bulletin DC10–71–159, it would take approximately 16 work hours per airplane to accomplish this required action, at an average labor rate of $60 per work hour. Required parts would cost between $2,744 and $2,822 per airplane. Based on these figures, the cost impact of the terminating modification proposed by this AD on U.S. operators is estimated to be between $3,704 and $3,782 per airplane.

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

Regulatory Impact

The regulations 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 removing amendment 39–11354 (64 FR 54202, October 6, 1999), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2000-NM–410-AD. Supersedes AD 95–04–07 R2, Amendment 39–11354.

Applicability: The following airplanes, certificated in any category:

Model	Excluding airplanes
1. DC–10–30 and –30F (KC–10A military) series airplanes, and MD–10–30F series airplanes.	On which bolt retainers have been installed on the engine mount per McDonnell Douglas DC–10 Service Bulletin 71–133, Revision 6, dated June 30, 1992.
2. DC–10–10, 10–15, –10–30 and –10–30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes.	On which the modification specified in McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997, has been done.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent broken lockwires, which could result in loosening of the engine mount bolts, and consequent separation of the engine from the airplane, accomplish the following:

Restatement of Requirements of AD 95–04–07 R2, Amendment 39–11354

(a) Within 120 days after March 17, 1995 (the effective date of AD 95–04–07 R1, amendment 39–9317), unless accomplished previously within the last 750 flight hours prior to March 17, 1995, perform a visual inspection to detect broken lockwires on the forward engine mount bolts on engines 1, 2, and 3, in accordance with McDonnell Douglas Alert Service Bulletin DC10–71A159, Revision 1, dated January 31, 1995.

(1) If no lockwire is found broken, repeat the inspection thereafter at intervals not to exceed 750 flight hours.

(2) If any lockwire is found broken, prior to further flight: Check the torque of the bolt, install a new lockwire, and install a torque stripe on the bolt, in accordance with the alert service bulletin. Thereafter at intervals not to exceed 750 flight hours, perform a visual inspection to detect misalignment of the torque stripes, and repeat the inspection to detect broken lockwires, in accordance with the alert service bulletin.

Terminating Actions

(b) For Model DC–10–30 and –30F (KC–10A military) series airplanes, and Model MD–10–30F series airplanes: Within 18 months after the effective date of this AD, install retainers on the engine mount bolts of engines 1, 2, or 3 per the procedures depicted in Figure 6 of Revision 6 of McDonnell Douglas DC–10 Service Bulletin 71–133, dated June 30, 1992. Accomplishment of the

installation constitutes terminating action for the requirements of this AD for that engine.

(c) For Model DC–10–10, –15, –30, and –30F (KC–10A military) series airplanes, and Model MD–10–10F and –30F series airplanes: Within 18 months after the effective date of this AD, modify the forward engine mount bolts for engine 1, 2, or 3, per McDonnell Douglas Service Bulletin DC10–71–159, dated September 6, 1995, or Revision 01, dated July 28, 1997. Accomplishment of the modification constitutes terminating action for the requirements of this AD for that engine.

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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, Los Angeles ACO.

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

(2) Alternative methods of compliance, approved previously in accordance with AD 95–04–07 R2, amendment 39–11354, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(e) 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 March 14, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6941 Filed 3–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–126100–00]

RIN 1545–AY62

Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to REG–126100–00, which was published in the **Federal Register** on Wednesday, January 17, 2001 (66 FR 3925). These regulations provide guidance on the reporting requirements for interest on deposits maintained at the U.S. office of certain financial institutions and paid to nonresident alien individuals.

FOR FURTHER INFORMATION CONTACT: Kate Y. Hwa (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of these corrections is under section 6049 of the Internal Revenue Code.

Need for Correction

As published, REG–126100–00 contains errors which may prove to be misleading and are in need of clarification.

1. On page 3927, column 1, in the preamble, under the paragraph heading "Comments and Public Hearing", second paragraph, line 2, the language "for March 31, 2001, beginning at 10 a.m." is corrected to read "for March 21, 2001, beginning at 10 a.m.".

§ 1.6049–4 [Corrected]

2. On page 3927, column 3, § 1.6049–4(b)(5)(ii), lines 5 through 8, the language "published in the **Federal Register** with respect to a Form W–8 (Certificate of Foreign Status) furnished to the payor or middleman after that date. (For interest" is corrected to read "published in the **Federal Register**. (For interest".

Cynthia Grigsby,

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

[FR Doc. 01–6478 Filed 3–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104683–00]

RIN 1545–AX88

Application of Section 904 to Income Subject to Separate Limitations and Computation of Deemed-Paid Credit Under Section 902; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Corrections to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Wednesday, January 3, 2001 (66 FR 319), relating to the application of section 904 to income subject to separate limitations and computation of deemed-paid credit under section 902.

FOR FURTHER INFORMATION CONTACT: Bethany A. Ingwalson (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of these corrections is under sections 902 and 904 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of ublic hearing (REG–104683–00), contains errors that may be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–104683–00), which is the subject of FR Doc. 00–32478 is corrected as follows:

1. On page 319, column 2, in the preamble under the caption **ADDRESSES**, line 9, the language "(REG–106409–00), Courier's Desk," is corrected to read "(REG–104683–00), Courier's Desk,".

§ 1.904(b)–1 [Corrected].

2. On page 331, column 3, § 1.904(b)–1(f), paragraph (i) of *Example 1.*, line 4 from the bottom of the paragraph, the language "would have been subject to tax a rate of 20" is corrected to read "would have been subject to tax at a rate of 20".

Cynthia E. Grigsby,

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

[FR Doc. 01–6479 Filed 3–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 195

[Docket No. RSPA–00–7408; Notice 1]

RIN 2137–AD49

Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators With Less Than 500 Miles of Pipelines)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule extends the requirements for protection of populated areas, commercially navigable waterways, and areas unusually sensitive to environmental damage from hazardous liquid pipeline spills to those regulated hazardous liquid pipeline operators who own or operate less than 500 miles of pipeline. This action is necessary because on December 01, 2000, RSPA's Office of Pipeline Safety (OPS) issued a final rule to establish new requirements for the protection of these areas. However, the published final rule applied only to hazardous liquid pipeline operators who own or operate 500 or more miles of pipeline. After further review, it was determined that the same requirements should be extended to the remaining regulated hazardous liquid pipeline operators.

DATES: Interested persons are invited to submit comments on this notice of proposed rulemaking (NPRM) by May 21, 2001. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit written comments by mail or delivery to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. It is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except federal holidays. You also may submit written comments to the docket electronically. See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

FOR FURTHER INFORMATION CONTACT: Mike Israni by phone at (202) 366–4571, by fax at (202) 366–4566, or by e-mail at mike.israni@rspa.dot.gov, regarding the subject matter of this proposed rule. See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

SUPPLEMENTARY INFORMATION: Filing Information, Electronic Access and General Program Information.

To submit comments electronically, log on to the following Internet Web address: *http://dms.dot.gov.* Click on "Help & Information" for instructions on how to file a document electronically. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone desiring confirmation of mailed comments must include a self-addressed stamped postcard.

You may contact the Dockets Facility by phone at (202) 366–9329, for copies of this proposed rule or other material in the docket. All materials in this docket may be accessed electronically at *http://dms.dot.gov.* General information about the RSPA Office of Pipeline Safety programs may be obtained by accessing OPS's Internet page at *http://ops.dot.gov.*

Background

On December 1, 2000, OPS published a final rule (65 FR 75378) that imposed pipeline integrity management program requirements on hazardous liquid operators that own or operate 500 or more miles of pipeline. The requirements apply to those hazardous liquid pipeline owners and operators with pipelines that could affect areas we defined as high consequence areas—populated areas, areas unusually sensitive to environmental damage, and commercially navigable waterways.

The final rule was the first in a series of rulemakings that require all regulated pipeline operators to have integrity management programs. OPS chose to start the series with hazardous liquid operators who own or operate 500 or more miles of pipelines because the pipelines they operate have the greatest potential to adversely affect the environment, based on the volume of product these pipelines transport. By focusing first on those liquid operators, OPS addressed requirements for an estimated 86.7 percent of hazardous liquid pipelines.

In the NPRM and final rule for operators with 500 or more miles of pipeline, we explained that we needed to gather more information about smaller liquid operations before proposing integrity management program requirements for operators operating less than 500 miles of pipeline. We further stated that proposed regulatory requirements for all the remaining regulated hazardous liquid and gas operators would soon follow.

Information that we collected revealed that many owners and operators of less than 500 miles of pipelines are to a large extent, companies with sufficient capabilities and resources, and are able to handle the same requirements imposed on operators of 500 miles or more of pipeline. These operators are well known names in the oil industry and are big utilities who also own or operate tank farms, terminals or production facilities. Such pipelines and facilities are mostly in the urban areas. The information gathered also revealed that more than 50% of such pipelines are capable of accommodating internal inspection devices and that operators of these pipelines have used internal inspection devices in the past. Furthermore, in discussions with some of the operators who operate less than 500 miles of pipeline, they indicated that they have capabilities and resources to meet the integrity management requirements proposed in this rulemaking.

This proposed rule covers the remaining 13.3 percent of hazardous liquid pipelines. It is estimated that approximately 5,440 miles of pipeline (of the 157,000 miles of hazardous liquid pipeline in the U.S.) will be impacted by this proposed rule.

As stated in the final rule for liquid operators with 500 and more miles of pipelines (65 FR 75378; December 1, 2000), many commenters, including NTSB, EPA, API, liquid operators and environmental advocacy groups, emphasized that the same requirements must apply to all the hazardous liquid pipeline operators regardless of the total mileage that they operate. Based on the information we have collected and comments we received, we have decided to propose the same requirements for operators with less than 500 miles of pipelines as RSPA required for operators with 500 or more miles of pipelines. The sole difference is in compliance dates which are linked to the effective date of this final rule. If comments to this proposed rule cause RSPA to impose different requirements on those regulated operators with less than 500 miles of pipelines, we will distinguish those requirements in the final rule.

See the final rule for hazardous liquid pipeline operators with 500 or more miles of pipeline (65 FR 75378; December 1, 2000) for all of the background and analysis on the subject matter.

The Proposed Rule

The proposed rule extends to regulated hazardous liquid pipeline operators with less than 500 miles of pipeline, all of the same requirements imposed on the hazardous liquid pipeline operators with 500 or more miles of pipeline, as in the December 1,

2000 final rule. However, because this proposed rule, and thus the eventual final rule, will be published at a later date, the compliance dates in this proposed rule will be accordingly shifted to give the operators with less than 500 miles of pipeline the same amount of time to comply with the requirements.

The December 1, 2000 final rule proposed repair criteria that may be changed based on comments. Any changes to that proposal will also be reflected in the final rule to this action.

Please refer to 65 FR 75378 for a discussion of all the proposed requirements.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department of Transportation (DOT) considers this action to be a non-significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735; October 4,1993). Therefore, it was not forwarded to the Office of Management and Budget. This proposed rule is non-significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979).

On December 01, 2000, RSPA's Office of Pipeline Safety (OPS) issued a final rule to establish new requirements for additional protection of populated areas, commercially navigable waterways, and areas unusually sensitive to environmental damage from hazardous liquid pipeline spills. The published final rule applies to hazardous liquid pipeline operators who own or operate 500 or more miles of pipeline. Through this document, OPS is proposing to extend the same requirements to the remaining regulated hazardous liquid pipelines.

A copy of the draft regulatory evaluation has been placed in the docket for this proposed rule. The following section summarizes the draft regulatory evaluation's findings.

Hazardous liquid pipeline spills can adversely affect human health and the environment. However, the magnitude of this impact differs from area to area. There are some areas in which the impact of a spill will be more significant than it would be in others due to concentrations of people who could be affected or to the presence of environmental resources that are unusually sensitive to damage. Because of the potential for dire consequences of pipeline failures in certain areas, these areas merit a higher level of protection. OPS is proposing this regulation to afford the necessary additional protection to these high consequence areas.

Numerous investigations by OPS and the National Transportation Safety Board (NTSB) have highlighted the importance of protecting the public and environmentally sensitive areas from pipeline failures. NTSB has made several recommendations to ensure the integrity of pipelines near populated and environmentally sensitive areas. These recommendations included requiring periodic testing and inspection to identify corrosion and other damage, establishing criteria to determine appropriate intervals for inspections and tests, determining hazards to public safety from electric resistance welded pipe and requiring installation of automatic or remotely-operated mainline valves on high-pressure lines to provide for rapid shutdown of failed pipelines.

Congress also directed OPS to undertake additional safety measures in areas that are densely populated or unusually sensitive to environmental damage. These statutory requirements included having OPS prescribe standards for identifying pipelines in high density population areas, unusually sensitive environmental areas, and commercially navigable waters; issue standards requiring periodic inspections using internal inspection devices on pipelines in densely-populated and environmentally sensitive areas; and survey and assess the effectiveness of emergency flow restricting devices, and prescribe regulations on circumstances where an operator must use the devices.

This proposed rulemaking addresses the target problem described above, and is a comprehensive approach to certain NTSB recommendations and Congressional mandates, as well as pipeline safety and environmental issues raised over the years.

This proposed rule focuses on a systematic approach to integrity management to reduce the potential for hazardous liquid pipeline failures that could affect populated and unusually sensitive environmental areas, and commercially navigable waterways. This proposed rulemaking requires pipeline operators to develop and follow an integrity management program that continually assesses, through internal inspection, pressure testing, or equivalent alternative technology, the integrity of those pipeline segments that could affect areas we have defined as high consequence areas i.e., populated areas, areas unusually sensitive to environmental damage, and commercially navigable waterways. The program must also evaluate the segments through comprehensive information analysis, remediate integrity problems and provide additional protection through preventive and mitigative measures.

This proposed rule (the second in a series of integrity management program regulations) covers hazardous liquid pipeline operators that own or operate less than 500 miles of pipeline used in transportation. OPS intends to soon propose integrity management program requirements for natural gas transmission operators. OPS chose to start the series with hazardous liquid operators who own or operate 500 or more miles of pipelines because the pipelines they operate have the greatest potential to adversely affect the environment, based on the volume of product these pipelines transport. Further, by focusing first on those liquid operators, OPS addressed requirements for an estimated 86.7 percent of hazardous liquid pipelines. This proposed rule covers the remaining 13.3 percent of hazardous liquid pipelines. It is estimated that approximately 5,440 miles (of the 157,000 miles of hazardous liquid pipeline in the U.S.) will be impacted by this proposed rule.

We have estimated the cost to develop the necessary program at approximately $9.64 million, with an additional annual cost for program upkeep and reporting of $1.8 million. An operator's program begins with a baseline assessment plan and a framework that addresses each required program element. The framework indicates how decisions will be made to implement each element. As decisions are made and operators evaluate the effectiveness of the program in protecting high consequence areas, the program will be updated and improved, as needed.

The proposed rule requires a baseline assessment of covered pipeline segments through internal inspection, pressure test, or use of other technology capable of equivalent performance. The baseline assessment must be completed within seven years after the final rule becomes effective. After this baseline assessment, the rule further proposes that an operator be required to periodically re-assess and evaluate the pipeline segment to ensure its integrity within a five year interval. It is estimated that the cost of periodic reassessment will generally not occur until the sixth year unless the baseline assessment indicates significant defects that would require earlier reassessment. Integrating information related to the pipeline's integrity is a key element of the integrity management program. Costs will be incurred in realigning existing data systems to permit

integration and in analysis of the integrated data by knowledgeable pipeline safety professionals. The total costs for the information integration requirements in this proposed rule are $6.4 million in the first year and $3.2 million annually thereafter.

The proposed rule requires operators to identify and take preventive or mitigative measures that would enhance public safety or environmental protection based on a risk analysis of the pipeline segment. One of the many preventive or mitigative actions that the notice proposes that an operator may take is to install an EFRD on the pipeline segment, as determined necessary. OPS could not estimate the total cost of installing EFRDs because OPS does not know how many operators will install them. Additionally, requirements have been proposed for an operator to evaluate its leak detection capability and modify that capability, if necessary. OPS does not know how many operators currently have leak detection systems or how many will be installed or upgraded as a result of this proposed rule. OPS was therefore also unable to estimate the total costs of the proposed leak detection requirements.

Affected operators will be required to assess more line pipe in segments that could affect high consequence areas as a result of this proposed rule than they would have been expected to assess if the proposed rule had not been issued. Integrity assessment consists of a baseline assessment, to be conducted over the first seven years after the effective date of the final rule, and subsequent re-assessment at intervals not to exceed every five years.

OPS has estimated the annual cost of additional baseline assessment that will be required by this proposed rule as $377 thousand annually. The cost for additional re-assessment that will be required to meet the five-year re-assessment requirement is also $377 thousand per year. Cost impact will be greater in the sixth and seventh years after the effective date of the final rule due to an overlap between baseline inspection and the initial subsequent testing. The additional costs in these two years are estimated at $5.26 million. The subsequent cost of testing will be $531 thousand every year thereafter.

The benefits of this proposed rule can not easily be quantified but can be described in qualitative terms. Issuance of this proposed rule ensures that all operators will perform at least to a baseline safety level and will contribute to an overall higher level of safety and environmental performance nationwide. It will lead to greater uniformity in how risk is evaluated and addressed and will provide more clarity in discussion by government, industry and the public about safety and environmental concerns and how they can be resolved.

Much of the proposed rule is written in performance-based language. A performance-based approach provides several advantages: encouraging development and use of new technologies; supporting operators' development of more formal, structured risk evaluation programs and OPS's evaluation of the programs; and providing greater ability for operators to customize their long-term maintenance programs.

The proposed rule has also stimulated the pipeline industry to begin developing a supplemental consensus standard to support risk-based approaches to integrity management. The proposed rule has further fostered development of industry-wide technical standards, such as repair criteria to use following an internal inspection.

Our emphasis on an integrity-based approach encourages a balanced program, addressing the range of prevention and mitigation needs and avoiding reliance on any single tool or overemphasis on any single cause of failure. This orientation will lead to addressing the most significant risks in populated areas, unusually sensitive environmental areas, and commercially navigable waterways. This integrity-based approach provides a good opportunity to improve industry performance and assure that these high consequence areas get the protection they need. It also addresses the interrelationships among different causes of failure, and aids in the coordination of risk control actions, beyond what a solely compliance-based approach would achieve.

The proposed rule provides for a verification process, which gives the regulator a better opportunity to influence the methods of assessment and the interpretation of results. OPS will provide a beneficial challenge to the adequacy of an operator's decision process. Requiring operators to use the integrity management process, and having regulators validate the adequacy and implementation of this process, should expedite the operators' rates of remedial action, thereby strengthening the pipeline system and reducing the public's exposure to risk.

A particularly significant benefit is the quality of information that will be gathered as a result of this proposal to aid operators' decisions about providing additional protections. Two essential elements of the integrity management program are that an operator continually assess and evaluate the pipeline's integrity, and perform an analysis that integrates all available information about the pipeline's integrity. The process of planning, assessment and evaluation will provide operators with better data on which to judge a pipeline's condition and the location of potential problems that must be addressed.

Integrating this data with the environmental and safety concerns associated with high consequence areas will help prompt operators and the Federal and state governments to focus time and resources on potential risks and consequences that require greater scrutiny and the need for more intensive preventive and mitigation measures. If baseline and periodic assessment data is not evaluated in the proper context, it is of little or no value. It is imperative that the information an operator gathers is assessed in a systematic way as part of the operator's ongoing examination of all threats to the pipeline integrity. The proposed rule is intended to accomplish that.

The public has expressed concern about the danger hazardous liquid pipelines may pose to their neighborhoods. The integrity management process leads to greater accountability to the public for both the operator and the regulator. This accountability is enhanced through our choice of a map-based approach to defining the areas most in need of additional protection—the visual depiction of the populated areas, unusually sensitive environmental areas, and commercially navigable waterways in need of protection focuses on the safety and environmental issues in a manner that will be easily understandable to everyone. The system integrity requirements and the sharing of information about their implementation and effectiveness will assure the public that operators are continually inspecting and evaluating the threats to pipelines that pass through or close to populated areas to better ensure that the pipelines are safe.

OPS has not provided quantitative benefits for the continual integrity management evaluation required in this proposed rule. OPS does not believe, however, that requiring this comprehensive process, including the re-assessment of pipelines in high consequence areas at a minimum of once every five years, will be an undue burden on hazardous liquid operators covered by this proposal. OPS believes the added security this assessment will provide and the generally expedited rate of strengthening the pipeline system in populated and important environmental areas and commercially navigable

waterways, is benefit enough to promulgate these requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). OPS must consider whether a rulemaking would have a significant impact on a substantial number of small entities. This proposed rulemaking was designed to impact only those hazardous liquid operators that own or operate less than 500 miles of pipeline. Because of this limitation on pipeline mileage, only 128 hazardous liquid pipeline operators (large national energy companies) covering 13.3 percent of regulated liquid transmission lines are impacted by this proposed rule.

The costs of the testing are proportionate to the number of miles of hazardous liquid pipeline that an operator owns or operates. The testing costs and the planning costs should be a function of the length of the pipeline. Information that we collected revealed that many owners and operators of less than 500 miles of pipelines are to a large extent, companies with sufficient capabilities and resources, and are able to handle the same requirements imposed on operators of 500 miles or more of pipeline. These operators are well known names in the oil industry and are big utilities who also own or operate tank farms, terminals or production facilities. The information gathered also revealed that more than 50% of such pipelines are capable of accommodating internal inspection devices and that operators of these pipelines have used internal inspection devices in the past. Based on this, and the evidence discussed above, I certify that this proposed rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has submitted a copy of the Paperwork Reduction Act Analysis to the Office of Management and Budget for its review. The name of the information collection is "Pipeline Integrity Management in High Consequence Areas for Operators with less than 500 miles of pipeline." The purpose of this information collection is designed to require operators of hazardous liquid pipelines to develop a program to provide direct integrity testing and evaluation of hazardous liquid pipelines in high consequence areas.

One hundred and twenty-eight (128) hazardous liquid operators will be subject to this proposed rule. It is estimated that those operators will have to develop integrity management programs taking approximately 2,800 hours per program. Each of the operators would also have to devote 1,000 hours in the first year to integrate this data into current management information systems.

Additionally, under the proposals, operators would have to update their programs on a continual basis. This will take approximately 330 hours per program annually. An additional 500 hours per operator will be needed for the proposed requirement to annually integrate the data into the operator's current management information systems.

Under the proposal, operators could use either hydrostatic testing or an internal inspection tool as a method to assess their pipelines. However, operators could use another technology if they could demonstrate it provides an equivalent understanding of the condition of the line pipe as the other two assessment methods. Operators have to provide OPS 90-days notice (by mail or facsimile) before using the other technology. OPS believes that few operators will choose this option. If they do choose an alternate technology, notice preparation should take approximately one hour. Because OPS believes few if any operators will elect to use other technologies, the burden was considered minimal and therefore not calculated.

Additionally, the proposed rule allows operators to seek a variance in limited situations from the required five-year continual re-assessment interval if they can provide the necessary justification and supporting documentation. Notice would have to be provided to OPS when an operator seeks a variance. OPS believes that approximately 10% of operators may request a variance. This is approximately 13 operators. The advance notification can be in the form of letter or fax. OPS believes the burden of a letter or fax is minimal and therefore did not add it to the overall burden hours discussed above.

Organizations and individuals desiring to submit comments on the information collection should direct them to U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 or by e-mail to *www.dms.dot.gov*. Please provide the docket number of this proposal. Comments must be sent within 60 days of the publication of this proposed rule.

The Office of Management and Budget is specifically interested in the following issues concerning the information collection:

1. Evaluating whether the collection is necessary for the proper performance of the functions of the Department, including whether the information would have a practical use;
2. Evaluating the accuracy of the Department's estimate of the burden of the collection of information, including the validity of assumptions used;
3. Enhancing the quality, usefulness and clarity of the information to be collected; and minimizing the burden of 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.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless a valid OMB control number is displayed. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by the OMB. For more details, see the Paperwork Reduction Analysis available for copying and review in the public docket.

Executive Order 13084

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule does not adopt any regulation that:

(1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government;

(2) Imposes substantial direct compliance costs on States and local governments; or

(3) Preempts state law.

Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255, August 10, 1999) do not apply. Nevertheless, in a

November 18–19, 1999 public meeting, OPS invited National Association of Pipeline Safety Representatives (NAPSR), which includes State pipeline safety regulators, to participate in a general discussion on pipeline integrity. Again in January, and February 2000, OPS held conference calls with NAPSR, to receive their input before proposing an integrity management rule.

Unfunded Mandates

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rule.

National Environmental Policy Act

We have analyzed the proposed rule in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. Section 4332), the Council on Environmental Quality regulations (40 CFR sections 1500–1508), and DOT Order 5610.1D, and have preliminarily determined that this action would not significantly affect the quality of the human environment.

The Environmental Assessment (available in the Docket) determined that the combined impacts of the initial baseline assessment (pressure testing or internal inspection), the subsequent periodic assessments, and additional preventive and mitigative measures that may be implemented to protect high consequence areas will result in positive environmental impacts. The number of incidents and the environmental damage from failures in and near high consequence areas are likely to be reduced. However, from a national perspective, the impact is not expected to be significant for the pipeline operators covered by the proposed rule. The following discussion summarizes the analysis provided in the Environmental Assessment.

Many operators covered by the proposed rule (those operating less than 500 miles of pipeline) already have internal inspection and pressure testing programs that cover most, if not all, of their pipeline systems. These operators typically place a high priority on the pipeline's proximity to populated areas, commercially navigable waterways, and environmental resources when making decisions about where and when to inspect and test pipelines. As a result, some high consequence areas have already been recently assessed, and a large fraction of remaining locations would probably have been assessed in the next several years without the provisions of the proposed rule. The most tangible impact of the proposed rule will be to ensure assessments are performed for those line segments that could affect a high consequence area that are not currently being internally inspected or pressure tested, and ensuring that integrity is maintained through an integrity management program that requires periodic assessments in these locations. Because pipeline failure rates are low, and because the total pipeline mileage operated by operators with less than 500 miles of pipeline that could affect high consequence areas is small (estimated to be approximately 5440 miles), the proposed rule has only a small effect on the likelihood of pipeline failure in these locations.

The proposed rule will result in more frequent integrity assessments of line segments that could affect high consequence areas than most operators are currently conducting (due to the five year interval required for periodic assessment). However, if the operator identifies and repairs significant problems discovered during the baseline inspection, and has in place solid risk controls to prevent corrosion and other threats (as required by the proposed rule), the benefits of testing every five years versus the longer intervals operators more typically employ are not expected to be significant.

The proposed rule requires operators to conduct an integrated evaluation of all potential threats to pipeline integrity, and to consider and take preventive or mitigative risk control measures to provide enhanced protection. If there is a vulnerability to a particular failure cause—like third party damage—these evaluations should identify additional risk controls to address these threats. Some of the liquid operators covered by the proposed rule already perform integrity evaluations or formal risk assessments that consider the environmental sensitivity and impacts on population. These evaluations have already led to additional risk controls beyond existing requirements to improve protection for these locations. For these operators, it is expected that additional risk controls will be limited and customized to site-specific conditions that the operator may not have previously recognized.

Finally, an important, although less tangible, benefit of the proposed rule will be to establish requirements for operator integrity management programs that assure a more comprehensive and integrated evaluation of pipeline system integrity in high consequence areas. In effect, this will codify and bring an appropriate level of uniformity to the integrity management programs some operators are currently implementing. It will also require operators who have limited, or no, integrity management programs to raise their level of performance. Thus, the proposed rule is expected to provide a more consistent, and overall, a higher level of protection for high consequence areas across the industry.

List of Subjects in 49 CFR Part 195

Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, OPS proposes to amend part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

Subpart F—Operation and Maintenance

2. Amend § 195.452 to revise paragraphs (a), (b), (b)(1) introductory text, (b)(1)(i), (d)(1), (d)(2) and (h)(3) to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) *Which operators must comply?* This section applies to each operator covered by this part.

(b) *What must an operator do?* (1) An operator must develop a written integrity management program that addresses the risks on each pipeline segment that could affect a high consequence area. For an operator who owns or operates a total of 500 or more miles of pipeline, this program must be developed no later than March 31, 2002. For an operator who owns or operates less than 500 miles of pipeline, this program must be developed no later than (one year after the effective date of the final rule). An operator must include in the program:

(i) An identification of all pipeline segments that could affect a high consequence area. A pipeline segment in a high consequence area is presumed to affect that area unless the operator's risk assessment effectively demonstrates otherwise. (See Appendix C of this part for guidance on identifying pipeline segments.) For an operator who owns or operates a total of 500 or more miles of pipeline, the identification must be completed no later than December 31, 2001. For an operator who owns or

operates less than 500 miles of pipeline, the identification must be completed no later than (nine months after the effective date of the final rule).

* * * * *

(d) *When must the baseline assessment be completed?*

(1) *Time period.* An operator must establish a baseline assessment schedule to determine the priority for assessing the pipeline segments. For an operator who owns or operates a total of 500 or more miles of pipeline, the baseline assessment must be completed by March 31, 2008. For an operator who owns or operates less than 500 miles of pipeline, the baseline assessment must be completed by (seven years after the effective date of the final rule). An operator must assess at least 50% of the line pipe subject to the requirements of this section, on an expedited basis, beginning with the highest risk pipe. For an operator who owns or operates a total of 500 or more miles of pipeline, the assessment of the initial 50% of the line pipe must by completed by September 30, 2004. For an operator who owns or operates less than 500 miles of pipeline, the assessment of the initial 50% of the line pipe must be completed by (42 months after the effective date of the final rule).

(2) *Prior assessment.* To satisfy the requirements of paragraph (c)(1)(i) of this section, and if the integrity assessment method meets the requirements of this section, an operator may use an integrity assessment conducted after—January 1, 1996 for an operator who owns or operates a total of 500 or more miles of pipeline, or after (five years prior to the effective date of the final rule) for an operator who owns or operates less than 500 miles of pipeline. However, if an operator uses this prior assessment as its baseline assessment, the operator must re-assess the line pipe according to the requirements of paragraph (j)(3) of this section.

* * * * *

(h) *What actions must be taken to address integrity issues?* * * *

(3) *Review of integrity assessment.* An operator must include in its schedule for evaluation and repair (as required by paragraph (h)(4) of this section), a schedule for promptly reviewing and analyzing the integrity assessment results. After March 31, 2004 for an operator who owns or operates a total of 500 or more miles of pipeline, or after (three years after the effective date of the final rule) for an operator who owns or operates less than 500 miles of pipeline—an operator's schedule must provide for review of the integrity assessment results within 120 days of conducting each assessment. The operator must obtain and assess a final report within an additional 90 days.

* * * * *

Issued in Washington DC on January 17, 2001.

Stacey L. Gerard,

Associate Administrator, Office of Pipeline Safety.

[FR Doc. 01–6821 Filed 3–20–01; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 66, No. 55
Wednesday, March 21, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Interim National Drought Council

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of interim national drought council meeting.

SUMMARY: The Interim National Drought Council (Interim Council) was established through a Memorandum of Understanding (MOU). The Interim Council's purpose is to coordinate activities between and among Federal Agencies, States, local governments, tribes and others. All meetings are open to the public; however, seating is limited and available on a first-come basis.

DATES: The Interim Council will meet on April 5, 2001, from 10:00 a.m. to 3:00 p.m. in the Williamsburg Room of the U.S. Department of Agriculture, Jamie L. Whitten Building, 12th and Jefferson Drive, SW, Washington, DC. All times noted are Eastern Daylight Time. The primary focus of this meeting will be to discuss actions and reports of the subcommittees and other Interim Council business.

FOR FURTHER INFORMATION CONTACT: Leona Dittus, Executive Director, Interim National Drought Council, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, Room 6701–S, STOP 0501, Washington, DC, 20250–0501 or telephone (202) 720–3168; FAX (202) 720–9688; internet *leona.dittus@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the MOU is to establish a more comprehensive, integrated, coordinated approach toward reducing the impacts of drought through better preparedness, monitoring and prediction, risk management, and response to drought emergencies in the United States. The Interim Council will encourage cooperation and coordination between and among Federal, State, local, and tribal governments and others, relative to preparation for and response to serious drought emergencies. Activities of the Interim Council include providing coordination to: (a) Resolve drought related issues, (b) exchange information about lessons learned, and (c) improve public awareness of the need for drought planning and mitigation measures. The Interim Council is co-chaired by the Secretary of Agriculture or her designee, and a non-federal co-chair, Ms. Ane D. Deister, Executive Assistant to the General Manager, Metropolitan Water District of Southern California, representing urban water interests. Administrative staff support essential to the execution of the Interim Council's responsibilities shall be provided by USDA. The Interim Council will continue in effect for 5 years or until Congress establishes a permanent National Drought Council.

If special accommodations are required, please contact Leona Dittus, at the address specified above, by COB March 30, 2001.

Signed at Washington, D.C., on March 15, 2001.

James R. Little,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–6935 Filed 3–20–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 2001 through June 30, 2002. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2620.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

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

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556, No. 10.558 and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR Part 210), the Commodity School Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Summer Food Service Program (7 CFR Part 225) and Child and Adult Care Food Program (7 CFR Part 226) and the guidelines for free milk in the Special Milk Program for Children (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household

size. The guidelines are used to determine eligibility for free and reduced price meals and free milk in accordance with applicable program rules.

Definition of Income

"Income," as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

"Income," as the term is used in this Notice, does not include any income or benefits received under any Federal programs that are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2001 through June 30, 2002. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2001 Federal income poverty guidelines by *1.30* and *1.85*, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar. The numbers reflected in this notice for a family of four represent an increase of 3.52% over the July 2000 numbers for a family of the same size.

Authority: (42 U.S.C. 1758(b)(1)).

Dated: March 14, 2001.

George A. Braley,

Acting Administrator.

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES
(Effective from July 1, 2001 to June 30, 2002)

Household size	Federal Poverty Guidelines			Reduced Price Meals - 185%			Free Meals - 130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 CONTIGUOUS UNITED STATES, DISTRICT OF COLUMBIA, GUAM AND TERRITORIES									
1.....	8,590	716	166	15,892	1,325	306	11,167	931	215
2.....	11,610	968	224	21,479	1,790	414	15,093	1,258	291
3.....	14,630	1,220	282	27,066	2,256	521	19,019	1,585	366
4.....	17,650	1,471	340	32,653	2,722	628	22,945	1,913	442
5.....	20,670	1,723	398	38,240	3,187	736	26,871	2,240	517
6.....	23,690	1,975	456	43,827	3,653	843	30,797	2,567	593
7.....	26,710	2,226	514	49,414	4,118	951	34,723	2,894	668
8.....	29,730	2,478	572	55,001	4,584	1,058	38,649	3,221	744
For each add'l family member add	+3,020	+252	+59	+5,587	+466	+108	+3,926	+328	+76
ALASKA									
1.....	10,730	895	207	19,851	1,655	382	13,949	1,163	269
2.....	14,510	1,210	280	26,844	2,237	517	18,863	1,572	363
3.....	18,290	1,525	352	33,837	2,820	651	23,777	1,982	458
4.....	22,070	1,840	425	40,830	3,403	786	28,691	2,391	552
5.....	25,850	2,155	498	47,823	3,986	920	33,605	2,801	647
6.....	29,630	2,470	570	54,816	4,568	1,055	38,519	3,210	741
7.....	33,410	2,785	643	61,809	5,151	1,189	43,433	3,620	836
8.....	37,190	3,100	716	68,802	5,734	1,324	48,347	4,029	930
For each add'l family member add	+3,780	+315	+73	+6,993	+583	+135	+4,914	+410	+95
HAWAII									
1.....	9,890	825	191	18,297	1,525	352	12,857	1,072	248
2.....	13,360	1,114	257	24,716	2,060	476	17,368	1,448	334
3.....	16,830	1,403	324	31,136	2,595	599	21,879	1,824	421
4.....	20,300	1,692	391	37,555	3,130	723	26,390	2,200	508
5.....	23,770	1,981	458	43,975	3,665	846	30,901	2,576	595
6.....	27,240	2,270	524	50,394	4,200	970	35,412	2,951	681
7.....	30,710	2,560	591	56,814	4,735	1,093	39,923	3,327	768
8.....	34,180	2,849	658	63,233	5,270	1,217	44,434	3,703	855
For each add'l family member add	+3,470	+290	+67	+6,420	+535	+124	+4,511	+376	+87

[FR Doc. 01-6988 Filed 3-20-01; 8:45 am]
BILLING CODE 3410-30-C

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), Department of Agriculture.

ACTION: Notice of proposed changes to Section IV of the Field Office Technical Guide in Maryland.

SUMMARY: It is the intention of NRCS in Maryland to review the following conservation practice standards, and revise and/or reissue them as appropriate:

Brush Management (Code 314); Channel Vegetation (Code 322); Chiseling and Subsoiling (Code 324); Clearing and Snagging (Code 326); Closure of Waste Impoundments (Code 360); Composting Facility (Code 317); Contour Buffer Strips (Code 332); Contour Farming (Code 330); Contour Stripcropping (Code 585); Critical Area Planting (Code 342); Cross Wind Stripcropping and/or Trap Strips (Codes 589B & C); Diversion (Code 362); Dry Hydrant (Code 432); Fence (Code 382); Filter Strip (Code 393); Firebreak (Code 394); Forage Harvest Management (Code 511); Forest Site Preparation (Code 490); Forest Stand Improvement (Code 666); Grassed Waterway (Code 412); Irrigation Storage Reservoir (Code 436); Irrigation System, Sprinkler (Code 442); Irrigation System, Trickle (Code 441); Irrigation Water Management (Code 449); Land Clearing (Code 460); Land Reconstruction, Abandoned Mined Land (Code 543); Land Reconstruction, Currently Mined Land (Code 544); Land Smoothing (Code 466); Manure Transfer (Code 634); Mulching (Code 484); Nutrient Management (Code 590); Open Channel (Code 582); Pasture and Hay Planting (Code 512); Pest Management (Code 595); Pipeline (Code 516); Pond Sealing or Lining (Code 521); Recreation Area Improvement (Code 562); Recreation Land Grading and Shaping (Code 566); Recreation Trail and Walkway (Code 568); Riparian Herbaceous Cover (Code 390); Roof Runoff Management (Code 558); Sediment Basin (Code 350); Spoil Spreading (Code 572); Spring Development (Code 574); Stream Crossing (Code 728); Streambank and Shoreline Protection (Code 580); Stripcropping, Field (Code 586); Subsurface Drain (Code 606); Surface Drain, Field Ditch (Code 607); Surface Drain, Main or Lateral (Code 608); Terrace (Code 600); Toxic Salt Reduction (Code 610); Tree/Shrub Establishment (Code 612); Tree/Shrub Pruning (Code 660); Underground Outlet (Code 620); Use Exclusion (Code 472); Waste Field Storage (Code 749); Waste Management System (Code 312); Waste Utilization (Code 633); Wastewater Treatment Strip (Code 635); Watering Facility (Code 614); Water and Sediment Control Basin (Code 638); Water Well (Code 642); Watering Facility (Code 614); Windbreak/Shelterbelt Establishment (Code 380). Some of these practice standards may be used in conservation systems to comply with Highly Erodible Land and Wetland Conservation provisions of the Farm Bill. Standards that NRCS decides are no longer needed in Maryland will be cancelled.

DATES: Revised conservation practice standards will be issued periodically beginning January 26, 2001. There will be a 30-day public comment period for each standard that is issued.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to David P. Doss, State Conservationist, Natural Resources Conservation Service, 339 Busch's Frontage Road, Suite 301, Annapolis, MD 21401. You may submit electronic requests to david.doss@md.usda.gov.

NRCS will maintain a list of persons who have requested the revised standards. Hard copies will be mailed to persons requesting a paper format. Persons who have submitted electronic requests will be notified by e-mail of the availability of the standards on the Maryland NRCS homepage. Electronic copies will be posted on the Internet at *http://www.md.nrcs.usda.gov*. Click on "Technology," then on "Draft Conservation Practice Standards."

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. NRCS will provide a 30-day public review and comment period relative to the proposed changes. At the close of the comment period, NRCS will make a determination regarding any changes to the draft conservation practice standards, and will publish the final standards for use in NRCS field offices. The final standards will also be posted on the Internet at the address noted above.

Dated: January 17, 2001.

David P. Doss,

State Conservationist, NRCS, Annapolis, Maryland.

[FR Doc. 01–7030 Filed 3–20–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Wisconsin

AGENCY: Natural Resources Conservation Service (NRCS) in Wisconsin, US Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Wisconsin for review and comment.

SUMMARY: It is the intention of NRCS in Wisconsin to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Riparian Forest Buffer (Code 391). This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before April 20, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Donald A. Baloun, Assistant State Conservationist, Natural Resources Conservation Service (NRCS), 6515 Watts Road, Suite 200 Madison, WI 53719–2726. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to dbaloun@wi.nrcs.usda.gov.

FOR FURTHER INFORMATION CONTACT: Donald A. Baloun, 608–276–8732.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Wisconsin will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Wisconsin regarding disposition of those comments and a final determination of change will be made.

Dated: February 26, 2001.

Patricia S. Leavenworth,

State Conservationist, Madison, Wisconsin.

[FR Doc. 01–7029 Filed 3–20–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Rural Housing Site Loans Policies, Procedures and Authorizations

DATES: Comments on this notice must be received by May 21, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Daryl L. Cooper, Senior Loan Specialist, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, Stop 0783, 1400 Independence Ave., SW., Washington, DC 20250–0783, Telephone (202) 720–1366.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1822–G, Rural Housing Site Loans, Polices, Procedures and Authorizations.

OMB Number: 0575–0071.

Expiration Date of Approval: August 31, 2001.

Type of Request: Extension of currently approved information collection.

Abstract: Section 523 of the Housing Act of 1949 as amended (Public Law 90–448) authorizes the Secretary of Agriculture to establish the Self-Help Land Development Fund to be used by the Secretary as a revolving fund for making loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of the land as building sites to be subdivided and sold to families, nonprofit organizations and cooperatives eligible for assistance.

Section 524 authorizes the Secretary to make loans on such terms and conditions and in such amounts as deemed necessary to public or private nonprofit organizations for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies and cooperatives eligible for assistance under any section of this title, or under any other law which provides financial assistance for housing low and moderate income families.

RHS will be collecting information from participating organizations to insure they are program eligible entities. This information will be collected at the RHS field office. If not collected, RHS would be unable to determine if the organization would qualify for loan assistance.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: Public or private nonprofit organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 6.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 6.

Estimated Total Annual Burden on Respondents: 36.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 15, 2001.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–7015 Filed 3–20–01; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 2/16/01–3/15/01

Firm name	Address	Date accepted petition	Product
Golden Casting Corporation	1616 Tenth Street, Columbus, IN 47201	02/20/01	Engine blocks and heads for large diesel trucks.
DaMa Jewelry Technology, Inc.	25 Oakdale Avenue Johnston, RI 02919	02/21/01	Earring backs and earring related components primarily of base metals.
Challenge Machinery Company (The)	1433 Fulton Street, Grand Rapids, MI 49417.	02/21/01	Graphic arts machinery and precision surface products.
Brophy Clay Things, Inc.	826 Eyrie Drive, Oviedo, FL 32765	03/01/01	Ceramic novelty items marketed as "Word Jars".
R. W. Chang & Co., Inc.	1202 Foundation Pky, Grand Prairie, TX 75050.	03/01/01	Picture frames of wood.
Greco Manufacturing, Inc. dba Greco Homes.	11403 58th Avenue East, Puyallup, WA 98373.	03/01/01	Prefabricated wood buildings.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 2/16/01–3/15/01—Continued

Firm name	Address	Date accepted petition	Product
Electronic Design & Sales, Inc.	1 EDS Way, Danville, VA 24541	03/01/01	Electronic assemblies, including coils and transformer.
Jewett Automation, Inc.	2901 Maury Street, Richmond, VA 23224	03/01/01	Custom automation machinery.
General Tool Specialties, Inc.	284 Sunnymead Road, Hillsborough, NJ 08844.	03/01/01	Molds for plastic injection, compression and transfer, and aluminum die castings.
Benee's Toys, Inc.	1602 Airpark Drive, Farmington, MO 63640.	03/02/01	Children's rubber and wooden school furniture, and tricycles.
Custom Machine & Tool Company, Inc.	22 Station Street, E. Weymouth, MA 02189.	03/02/01	Timing belt pulleys, pulley stock and flanges of aluminum and steel.
Johnston Industries, Inc.	105 13th Street, Columbus, GA 31901	03/02/01	Woven textile fabrics products of cotton, man-made and blended fibers.
Pure Water, Inc.	3725 Touzalin Avenue, Lincoln, NE 68507	03/02/01	Water purifying machinery and filters.
Manchester Wood, Inc.	180 North Street, Granville, NY 12832	03/05/01	Wood furniture.
Products Finishing Corporation	350 Clarkson Street, Brooklyn, NY 11226	03/08/01	Portable folding specialty and luggage carts.
Fabwell Corporation	8410 S. Regency Drive, Tulsa OK 74131	03/14/01	Steel tanks.
Kauai Coffee, Inc.	P.O. Box 8, Eleele, HI 96705	03/14/01	Coffee.
Barrett's Busy B's Cedar	788 Barrett Road, Priest River, ID 83856	03/14/01	Cedar fence boards and posts.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: March 14, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–6978 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and determination not to revoke in part.

SUMMARY: On September 12, 1999, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on oil country tubular goods from Mexico and intent not to revoke the order in part. The review covers exports of this merchandise to the United States by Tubos de Acero de Mexico S.A. (TAMSA) and Hylsa S.A. de C.V. (Hylsa). The review period is August 1, 1998 to July 31, 1999.

We invited interested parties to comment on the preliminary results. We received comments and rebuttal comments from petitioners and from both respondents. Based on our analysis of the comments received, we have made changes in the margin calculations for Hylsa. The final weighted-average dumping margins for TAMSA and Hylsa are listed below in the section entitled Final Results of Review.

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall (TAMSA), Dena Aliadinov (Hylsa), or Steve Bezirganian, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–1388, (202) 482–3362, or (202) 482–1131, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (1999).

Background

On September 12, 2000, the Department published in the **Federal Register** the preliminary results of the fourth administrative review of the antidumping duty order on oil country tubular goods ("OCTG") from Mexico (see Oil Country Tubular Goods From Mexico: Preliminary Results of Administrative Review and Notice of Intent Not to Revoke in Part, 65 FR 54998 (September 12, 2000) (Preliminary Results).

Section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final determination to 180 days from the date of publication of the

preliminary determination. On January 8, 2001, the Department published a notice of extension of the time limit for the final results in this case to March 12, 2001. See Oil Country Tubular Goods from Mexico: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review, 66 FR 1309 (January 8, 2001).

The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping order on OCTG from Mexico. See Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998.

Duty Absorption

As part of this review, we are considering, in accordance with section 751(a)(4) of the Act, whether TAMSA absorbed antidumping duties. See the Preliminary Results of this review. For these final results of review, we determine that there is no dumping margin on any of TAMSA's sales during the period of review and, therefore, find that antidumping duties have not been absorbed by TAMSA on its U.S. sales during this review period.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated March 9, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and the electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations for Hylsa. No changes have been made in the margin calculations for TAMSA.

Final Results of Review

We determine that the following percentage weighted-average margins exist for the period August 1, 1998 through July 31, 1999:

OIL COUNTRY TUBULAR GOODS

Producer/ manufacturer/ exporter	Weighted-average margin %
TAMSA	0
Hylsa	0.79

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For assessment purposes, the Department has calculated importer-specific assessment rates by dividing the total antidumping duties calculated for the subject merchandise examined by the entered value of such merchandise. The Department will direct the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise entered during the POR, except where the assessment rate is zero or de minimis (see 19 CFR 351.106(c)(2)).

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of OCTG from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates for those firms as stated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.79 percent. This is the "all others" rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the

Department's regulations. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i)(1)of the Act.

Dated: March 12, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix I—Issues in Decision Memorandum

Comments and Responses

TAMSA

1. Revocation
2. Export Price and Constructed Export Price Sales

Hylsa

1. Export Credit Insurance
2. Value Added Taxes—Raw Material
3. Packing Costs
   A. Double-Counted
   B. Reporting Period
4. Single Average Cost for All Products
5. General & Administrative Expenses and Exchanges Gains & Losses
6. Profit
7. Revocation

[FR Doc. 01–6913 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841]

Structural Steel Beams From Korea: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: In response to a request by Northwestern Steel & Wire Company, Nucor-Yamato Steel Company, and TXI-Chaparral Steel, Inc. ("Petitioners"), interested parties in this proceeding and the petitioners in the less-than-fair value investigation of structural steel beams from Korea, the Department of Commerce ("Department") is conducting a changed circumstances administrative review of the antidumping duty order on structural steel beams from Korea to determine the successor-in-interest to the merger of two respondent companies, Inchon Iron & Steel Co., Ltd. ("Inchon") and Kangwon Industries, Ltd. ("Kangwon"). For the purpose of administering an antidumping duty, the Department examined whether the resulting company, which operates under the name of Inchon, should be considered as the pre-merger Inchon, pre-merger Kangwon or a new entity altogether, and whether as such, the post-merger Inchon should be assigned the antidumping duty deposit rate of pre-merger Inchon, pre-merger Kangwon or a new rate. As a result of this review, the Department preliminarily finds that Inchon is the successor-in-interest to the merger of Inchon and Kangwon as post-merger Inchon operates in a manner that is not substantially different from pre-merger Inchon. Thus, Inchon should retain the deposit rate assigned by the Department in the investigation for all entries of subject merchandise produced or exported by the post-merger entity.[1]

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Shin or Laurel LaCivita, Office of CVD/AD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0413 or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as set forth at 19 CFR 351 (2000).

Background

On August 18, 2000, the Department published in the **Federal Register** an antidumping duty order on structural steel beams from Korea. *See Structural Steel Beams from Korea: Notice of Antidumping Duty Order,* 65 FR 50502 (August 18, 2000). In an August 30, 2000 letter to the Department, petitioners requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Act to determine the successor-in-interest of the merger between Inchon and Kangwon, two companies involved in the structural steel beams investigation ("Investigation") from South Korea, and what cash deposit rate the post-merger company should be assigned. *See Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Korea,* 65 FR 41437 (July 5, 2000) (as amended 65 FR 50501 (August 18, 2000)). We published a notice of initiation of a changed circumstance review on September 15, 2000 to determine whether the post-merger Inchon is the successor company to the merger of Inchon and Kangwon. *See Initiation of Changed Circumstance Antidumping Duty Administrative Review: Structural Steel Beams from Korea,* 65 FR 55944 (September 15, 2000). The Department issued questionnaires on September 29, 2000 and December 1, 2000 and received responses on November 6, 2000 and December 15, 2000. As provided in section 782(i) of the Act, from January 17–19, 2001, the Department conducted an on-site verification of the information on the record. *See* January 29, 2001 Verification Report (a public version of which is located in room B–099 of the main Department of Commerce building).

The Department is conducting this changed circumstance review in accordance with 19 CFR 351.216.

Scope of Review

The products covered by this review are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000,

[1] For the purpose of this notice, the Department will distinguish between pre and post-merger Inchon when necessary. References to "Inchon" represent both the pre and post-merger company.

7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Successorship

Inchon and Kangwon began informal discussions of merging their two operations in July of 1999. Shareholders of both Inchon and Kangwon approved the merger respectively on January 7, 2000 and December 14, 1999. On March 15, 2000, Inchon and Kangwon finalized the merger of their two companies, effective on that date. According to the terms of the merger, Inchon acquired all of Kangwon's assets and liabilities, and production would continue under Inchon's name. Furthermore, Kangwon ceased to exist as a corporate entity as a result of the merger. Though the Department sought and received information concerning the merger during the course of investigation, Inchon and Kangwon did not initiate discussions of, nor complete, the merger until after the period of investigation.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, the following changes: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review ("Canadian Brass")* 57 FR 20460 (May 13, 1992); *Steel Wire Strand for Prestressed Concrete from Japan, Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 55 FR 28796 (July 13, 1990); and *Industrial Phosphorous From Israel; Final Results of Antidumping Duty Changed Circumstances Review,* 59 FR 6944 (February 14, 1994). While no one or several of these factors will necessarily provide a dispositive indication to succession, the Department will generally consider one company to be a successor if its resulting operation is essentially the same as that of its predecessor. *See Canadian Brass* at 20461. Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity, the Department will assign the new company the cash deposit rate of its predecessor.

On the basis of the record developed in this proceeding, as demonstrated by the following factors, we preliminarily determine that Inchon is the successor-in-interest to the merger of Inchon and Kangwon as post-merger Inchon operates in a manner that is not substantially different from pre-merger Inchon.

Management and Corporate Structure

In analyzing this criterion, the Department has focused on three aspects: management, the post-merger company's board of directors (BOD), and the post-merger company's corporate structure.

Management

In reporting managerial changes since the merger to the Department, Inchon has concentrated on what it classifies as upper-level management personnel, which includes presidents, vice-presidents, executive directors, and directors. Additionally, the Department has obtained information regarding other lower-level management changes since the merger (*i.e.* the positions of general managers, assistant general managers, senior managers, and managers). Next, the Department analyzed information concerning Inchon's pre and post-merger Board of Directors ("BOD"). Finally, the Department examined whether the corporate structure has changed and which level(s) of management is most responsible for determining policies prevalent to the operation of the company.

With regard to lower-level management positions (those below that of director), there has been greater retention of management personnel formerly employed by Kangwon, and correspondingly, at these lower levels of management, the post-merger scheme is more reflective of a mixture of the former Inchon and Kangwon. An examination of the record reveals that, with respect to the upper-level management, as defined by Inchon, these positions are predominantly occupied by the same persons who had occupied these positions prior to the merger. Hence, the overall upper-level management scheme is reflective of the pre-merger Inchon. Because the exact figures are proprietary in nature, please see the proprietary version of the *Decision Memorandum to Bernard T. Carreau from Edward Yang, Preliminary Determination of Changed Circumstances Antidumping Duty Administrative Review: Structural Steel Beams from South Korea ("Decision Memo"),* pp. 2–4, March 14, 2001, for further details.

The Department has also examined the constitution of Inchon's board of directors. We note that Inchon's BOD has in fact undergone significant change solely because of the merger. As a result of the merger, Inchon's asset value rose to a level that legally required an expansion of the BOD. Prior to the consummation of the merger, Kangwon converted the debt owed to creditor banks into outstanding shares of Kangwon. This stake in Kangwon resulted in a certain percentage of ownership of Inchon by Kangwon's creditor banks as a result of the merger agreement, and consequently resulted in the appointment to the BOD of representatives of the creditor banks. *See Decision Memo* at page 4. Evidence on the record also reveals that the BOD consists of two general groups of directors: active and non-active. In this regard, the current president and chairman of the company are both active members of the BOD, and both were employed by Inchon prior to the merger. *See Decision Memo* at pp. 4–5.

Corporate Structure

According to Inchon, all lower-level managers at Inchon make recommendations relating to the firing of employees and possess budget allocation authority. In terms of sales policies regarding customers and supplier policies, lower-level management personnel often prepare policy recommendations which must subsequently be reviewed and approved by upper-level management personnel (director level or higher). *See* January 29, 2001 Verification Report at 6 and 16. Thus, though lower-level management personnel possess some responsibility (*i.e.* allocation of budget and promotional recommendations) after the merger, policies which would significantly alter the pricing and production practices of Inchon would not be decided by management personnel below the position of director, but by the upper-level management hierarchy reported by Inchon throughout this review.

After the merger, Inchon reorganized to assimilate the Pohang facility within the company's corporate structure. Because the exact nature of this reorganization is proprietary and therefore cannot be discussed here, see *Decision Memo* at pp. 3–4. We note that these changes have primarily dealt with the addition of personnel, and not a shift of responsibility in Inchon's managerial hierarchy. Certainly, the acquisition of an entirely new production facility must necessitate, and did in fact necessitate, an internal reorganization. However, the cumulative effect of this reorganization appears to have been primarily to incorporate the operations of the Pohang production facility and sales of merchandise produced at that facility. Thus, while Inchon employs a number

of former Kangwon lower-level management personnel, their responsibilities appear to be primarily devoted to the operational activities associated with the Pohang facility, and there is no indication that these lower-level managers possess significant policymaking responsibilities with regard to the operation of Inchon as a whole.

In determining Inchon's corporate structure, we have examined whether changes to the BOD have substantially altered the BOD's role within the company. In the case at hand, the BOD's role concerns the formulation of company strategy and the supervision of management. *See* January 29, 2001 Verification Report at 6. The evidence on the record indicates that the BOD primarily exercises this role by electing the president and the chairman of the company, both of whom are directly involved in the everyday operations of the company. Indeed, the BOD resulting from the merger has exercised this voting power twice. However, it is worth noting that the current president and chairman of the company were with Inchon prior to the merger, and in fact, evidence on the record supports the fact that certain policies, such as sales and supplier policies, have not changed from those applied by Inchon prior to the merger (*see* discussion below in "Suppliers" and "Customers"). Therefore, there is little evidence on the record which indicates that the BOD role within Inchon has changed significantly since the merger.

Based on the above reasons, the Department concludes that post-merger Inchon's management remains similar to Inchon's management and corporate structure prior to the merger and did not substantially change as the result of the merger. *See Decision Memo* at 5.

Production Facilities

Next, under the *Canadian Brass* analysis, we examined Inchon's production facility. The acquisition of the Pohang facility represents the major asset gained by Inchon through the merger. The record of this review indicates that through the Pohang facility, Inchon gained the ability to produce a new type of subject merchandise which Inchon could not produce prior to the merger. Though Inchon did gain the ability to produce a new product, this product does not comprise a large percentage of the company's total production quantity and value. Moreover, Inchon's production process largely remains similar to that prior to the merger. *See Decision Memo* at page 4. *See Certain Stainless Steel Pipe from Korea; Final Results of Antidumping Duty Changed Circumstances Review*, 63 FR 16979, 16981 (April 7, 1998), where the Department determined that the acquisition of a new production facility could not, by itself, provide a reasonable basis for the Department to determine whether a company is a different business entity.

Based upon the reasons aforementioned, the Department concludes that Inchon's production facilities did not substantially change as a result of the merger.

Suppliers

Under the *Canadian Brass* analysis, the Department next examined changes to Inchon's supplier base. Prior to the merger, Inchon engaged in a specific supply policy that was qualitatively different from the policy Kangwon employed. Because the exact nature of these supply policies is proprietary and therefore cannot be discussed here, *see Decision Memo* at page 5. The Department notes that Inchon's "upper-management" structure reaffirmed the company's pre-merger supplier policies as the guideline for post-merger operation. *See Decision Memo* at page 5. An examination of a combined list of Inchon's and Kangwon's suppliers reflects that post-merger Inchon has not done business with a number of Kangwon's former suppliers. Post-merger Inchon has done business with largely the same supplier base as prior to the merger, as well as some new suppliers (*i.e.* suppliers from who neither Inchon nor Kangwon purchased) *See Decision Memo* at pp. 5–6.

Therefore, we believe that the facts indicate that Inchon has retained its pre-merger supply policy, and to a significant degree has both retained its existing suppliers and has discontinued business with suppliers of the former Kangwon.

Customers

Lastly, under the *Canadian Brass* analysis, the Department examined changes to Inchon's customer base. A review of Inchon's customer lists from before and after the merger reflects an expanded customer base. Since the merger, Inchon gained a number of former Kangwon customers and customers to whom neither Inchon nor Kangwon sold prior to the merger. Post-merger Inchon's sales to former Kangwon customers, however, do not constitute a share of business commensurate with the volume and value of sales made by Kangwon to these customers. Instead, the Department notes that post-merger Inchon's core customer group continues to be companies to whom Inchon sold prior to the merger. *See Decision Memo* at page 6.

The record evidence also indicates that Inchon and Kangwon had different sales policies in regards to conditions such as payment terms, payment guarantees, and credit policies. After the merger, Inchon's upper-level management has reaffirmed the pre-merger sales policy as the effective policy of the post-merger company. As a result of these sales policies, a number of former Kangwon customers did not do business with post-merger Inchon. Significantly, evidence on the record reveals that the former Kangwon customers to whom Inchon did sell after the merger had to conform to pre-merger Inchon's sales policy. *See Decision Memo* at page 7.

Therefore, the Department concludes that the record indicates that post-merger Inchon sells under the same sales policy and predominantly to the same customer base as prior to the merger. Moreover, to the extent that customers solely doing business with Kangwon prior to the merger wished to do business with post-merger Inchon, the record is clear that these customers have been required to accept Inchon's sales terms, and were not allowed to continue conducting business at the sales terms they had formerly been offered.

Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

Based on the above findings, the Department preliminarily determines post-merger Inchon is the successor to the merger of Inchon and Kangwon, and thus, if the Department upholds this determination in the final results, post-merger Inchon will retain the antidumping duty deposit rate assigned to Inchon by the Department in the investigation, which is 25.31 percent. While post-merger Inchon employs many former Kangwon employees and lower-level management personnel, post-merger Inchon's decision-making hierarchy largely remains unchanged in terms of corporate structure and personnel; the acquisition of the Pohang facility did not significantly expand Inchon's product range; and post-merger Inchon continues to operate with a similar supplier and customer base, and under the same sales and supply policies, as prior to the merger.

Public Comment

Pursuant to 19 CFR 351.310 and the Department's January 10, 2001 scheduling letter, any interested party may request a hearing within 10 days of

publication of this notice. Case briefs and/or written comments from interested parties may be submitted no later than 21 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those case briefs or comments, may be filed no later than 28 days after the publication of this notice. All written comments must be submitted in accordance with 19 CFR 353.31(e) and must be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first working day thereafter. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish in the **Federal Register** a notice of final results of this changed circumstances antidumping duty administrative review, including the results of its analysis of any issues raised in any written comments.

This notice is in accordance with sections 751(b)(1) and (d) and 777(i) of the Act and 19 CFR 351.216.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of Assistant Secretary for Import Administration.

Dated: March 13, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6910 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–815]

Sulfanilic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 14, 2000, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China. The review covers the period August 1, 1998 to July 31, 1999, and two firms: Zhenxing Chemical Industry Company (Zhenxing) and Yude Chemical Industry Company (Yude). The final results of this review indicate that the two responding parties, Zhenxing and Yude, failed to cooperate by not acting to the best of their ability in responding to our requests for information. Consequently, we continue to find the use of adverse facts available warranted, and have used the single margin "PRC rate" as adverse facts available with respect to Zhenxing and Yude, which is listed below in the "Final Results of the Review" section of this notice.

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Samantha Denenberg, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3964 or (202) 482–1386, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930 (the Act), as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995. In addition, unless otherwise indicated, all citations to the Department's regulations are codified at 19 CFR part 351 (2000).

Background

On September 14, 2000, the Department published the preliminary results of the administrative review of the antidumping duty order on sulfanilic acid. *See Sulfanilic Acid from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 55508 (September 14, 2000).

On September 18, 2000, the Department issued the verification report as a result of our on-site inspection of relevant sales and financial records. Zhenxing, Yude, and PHT International (hereafter, respondents) submitted comments on the verification report on September 28, 2000, and all interested parties filed case briefs with the Department on October 16, 2000. In a letter to respondents dated November 7, 2000, the Department determined that the respondents' comments on the verification report and their case brief contained certain untimely filed new factual information and argument based upon that information, and requested that they correct and re-file these submissions. On November 9, 2000, respondents filed a request to the Department to consider retaining some of the information contained in the aforementioned submissions because they concerned events that transpired at verification that they claimed disputed certain statements made in the verification report. The Department granted this request, and on November 15, 2000, issued a revised corrections list to respondents and a schedule for submission of respondents' corrected case briefs and rebuttal briefs from all interested parties. Respondents submitted their corrected comments on the verification report and their revised case brief on November 20, 2000, in accordance with the Department's decision in this matter. All interested parties submitted rebuttal briefs to the Department on November 27, 2000.

Respondents submitted publicly available information to value factors of production on October 4, 2000. In addition, they filed a timely request for a hearing on October 17, 2000, and a hearing was held at the Department on December 13, 2000. The hearing was attended by both respondents and petitioner. Respondents also requested in a letter to the Department dated November 1, 2000, the right to revise their case brief in order to address the impact of the new law, H.R. 4461. The Department addressed this request in its aforementioned November 15, 2000, letter to respondents.

On January 4, 2001, the Department published a notice to extend the time limit for the final results of review from January 12, 2001 to March 13, 2001. *See Sulfanilic Acid from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty*, 66 FR 1952 (January 10, 2001).

The Department issued a preliminary determination to treat Zhenxing and Yude as a single producer for the 1998/1999 administrative review on January 9, 2001, and requested comments from interested parties. *See* Department's Collapsing Memorandum dated January 9, 2001. On January 22, 2001, respondents timely filed comments to this memorandum.

On December 22, 2000, the Department requested the U.S. Customs Service (Customs) to release to us certain documents that it had in its possession concerning possible sales of sulfanilic acid from Zhenxing to unaffiliated U.S. importers. In response to this request, Customs released to the Department on January 26, 2001, information relating to the possible sales. On February 2, 2001, the Department placed this information on the record of this review via a letter to

interested parties requesting comments on the documents obtained by Customs. Respondents requested an extension of the deadline for the filing of comments on these Customs documents in a February 14, 2001, letter submitted to the Department. On February 15, 2001, the Department denied this extension in a letter issued to respondents. All interested parties filed their comments and rebuttals to this Customs information on February 16, 2001 and February 21, 2001, respectively. On February 20, 2001, petitioner (Nation Ford Chemical Company), submitted a letter to the Department claiming that respondents' comments to this Customs information erroneously included new factual information. The Department addressed this issue in a memorandum to the file dated February 22, 2001, by clarifying that the Department is accepting respondents' new factual information, and by granting petitioner 10 days from the date of its submission to rebut this information with any factual information of its own. Accordingly, petitioner submitted rebuttal factual information on February 26, 2001.

Scope of the Antidumping Duty Order

Imports covered by this review are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.24 of the Harmonized Tariff Schedule (HTS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the subheading 2921.42.24 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under the HTS subheading 2921.42.79, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by the respondents using standard verification procedures, including on-site inspection of the facilities and the examination of relevant sales and financial records. The results of our verification are discussed in the verification report. Specific arguments relating to the conduct of the verification are addressed in the Department's Memorandum on Respondents' Comments on the Verification and Verification Report dated March 13, 2001. Other arguments concerning the content of the verification report are addressed in the "Verification Report" section of the "Issues and Decision Memorandum" (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated concurrent with this notice. A public version of these memoranda is on file in the Central Records Unit (CRU), room B–099 of the Main Commerce Building.

Request for Revocation

In conjunction with respondents' request for a review submitted on August 31, 1999, Zhenxing and Yude also requested revocation of the antidumping duty order on sulfanilic acid from China with respect to their sales of this merchandise. For purposes of these final results, we continue to find that they are not eligible for partial revocation from the order on sulfanilic acid under 19 CFR 351.222(b)(1)(i), as outlined in our analysis published in the preliminary results.

Separate Rates

To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in a non-market economy (NME) country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). As a result of our determination that the responses are not reliable, however (*see* below), the Department is not granting separate rates to those companies and is assigning the rate of 85.20 as the PRC country-wide rate, which also will apply to Zhenxing and Yude.

Analysis of Comments Received

As noted above, specific issues and comments submitted by interested parties pertaining to the conduct of the verification, and in response to certain Customs documents placed on the record of this review by the Department, are addressed, respectively, in the Department's Memorandum on Respondent's Comments on the Verification and Verification Report, and in Memorandum on the Department's Findings on Certain Customs Documents. All other issues and comments raised in the case and rebuttal briefs, including interested parties' responses to the Department's Collapsing Memorandum, are addressed in the Decision Memorandum, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *http://ia.ita.doc.gov/frn/frnhome.htm*.

Use of Facts Available

For a discussion of our application of the use of the facts otherwise available, see the "Use of Facts Otherwise Available" section of the preliminary results and the "Facts Available" section of the Decision Memorandum, both of which are on file in the CRU and also available at the Web address shown above.

Final Results of Review

The Department has not altered its determination from the preliminary results to use the rate of 85.20 percent as the adverse facts available for the period August 1, 1998 through July 31, 1999 for all firms which have not demonstrated that they are entitled to separate rates, including Zhenxing and Yude.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. We will direct Customs to assess the resulting percentage margin against the

entered Customs values for the subject merchandise on each entry of that importer under the relevant order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of sulfanilic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: the cash deposit rate for all PRC exporters and non-PRC exporters of subject merchandise from the PRC will be 85.20 percent (*i.e.*, the PRC country-wide rate). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: March 13, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix I: Issues Discussed in Decision Memorandum

(*See* web address *http://ia.ita.doc.gov/frn/frnhome.htm*)

Comments and Responses

1. Facts Available
2. Use of Factual Information from the U.S. Customs Service
3. Verification Outline and Procedure
4. Verification Report/Alleged Untrue Statements
5. Verification Report/Use of the Term "Unreported" Sales
6. Verification Report/Inability to Reconcile Sales
7. Verification Report/Issuing of Verification Report
8. Verification Comments are Untimely Factual Information
9. Knowledge Test
10. Collapsing
11. Surrogate Values

[FR Doc. 01–6912 Filed 3–20–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–605]

Industrial Phosphoric Acid From Israel: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 6, 2000, the Department of Commerce (the Department) published the preliminary results of its administrative review of the countervailing duty order on industrial phosphoric acid (IPA) from Israel. The review covers the period January 1, 1998 to December 31, 1998.

Based on our analysis of the comments received, and the decision of the Court of Appeals for the Federal Circuit in Delverde S.r.L. v. United States, 202 F.3d 1360 (Fed. Cir. 2000) (Delverde III), the Department has reexamined its change in ownership analysis and methodology. As a result, we have made changes to the net subsidy rate. Therefore, the final results differ from the preliminary results. The final net subsidy rate for the reviewed company is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Samantha Denenberg, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3964 or (202) 482–1386, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930 (the Act), as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995. In addition, unless otherwise indicated, all citations to the Department's regulations are codified at 19 CFR part 351 (2000).

Background

On September 6, 2000, the Department published the preliminary results of the administrative review of the countervailing duty order on industrial phosphoric acid. *See Industrial Phosphoric Acid from Israel; Preliminary Results and Final Partial Recission of Countervailing Duty Administrative Review*, 65 FR 53984 (September 6, 2000). This review covered two manufacturers/exporters, Rotem Amfert Negev Ltd. (Rotem) and Haifa Chemicals Ltd. (Haifa). Haifa did not export the subject merchandise during the POR. Therefore, we rescinded the review with respect to Haifa in the preliminary results. The review covers the period January 1, 1998 through December 31, 1998, and nine programs.

On September 12, 2000, Rotem submitted corrections to its sales values as a result of errors found at verification. The Department issued its reports on the verification of Rotem's and the GOI's questionnaire responses on December 14, 2000. The public version of these reports are on file in the Central Records Unit (CRU), room B–099 of the Main Commerce Building.

On October 4, 2000, the Department invited interested parties to provide comments on the implications for this administrative review, if any, of the Delverde III decision, but to exclude from their case briefs any specific comments pertaining to the privatization of Israel Chemicals Ltd. (ICL) until the Department issued its preliminary decision memo on ICL's privatization (the parent company of Rotem). Rotem and the Government of Israel (GOI) provided comments on the Department's change-in-ownership methodology on October 24, 2000. As a result of the Department's review of our change-in-ownership methodology, the Department extended the time limit for the final results in order to make additional inquiries concerning the privatization of ICL. *See Industrial Phosphoric Acid from Israel; Notice of Extension of Time Limit for Countervailing Duty Administrative Review*, 65 FR 68126 (November 14, 2000). The Department issued its interpretation of Delverde III and revised its change in ownership approach on December 19, 2000, in the Final Results of Redetermination

Pursuant to Court Remand, *Acciai Speciali Terni S.p.A.* v. *United States (Final Redetermination).*

On December 22, 2000, the Department issued a change-in-ownership questionnaire to Rotem and the GOI, and received responses on January 18, 2001. On February 9, 2001, the Department issued its "Change-in-Ownership Analysis Memorandum" (CIO Memorandum) on ICL's privatization. Rotem and the GOI submitted comments on the Department's CIO Memorandum on February 14, 2001. Rotem and the GOI filed their case brief on January 5, 2001, commenting on the preliminary results in this administrative review but excluding any comments concerning ICL's privatization. Petitioners have not provided any comments in this administrative review.

Scope of the Countervailing Duty Order

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description of the scope remains dispositive.

Analysis of Comment Received

All issues raised in the case and rebuttal briefs, including those in comments on the Department's Change-in-Ownership Memorandum, and submitted by parties to this administrative review, are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated concurrent with this notice, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at http://ita.doc.gov/import_admin/records/frn, under the heading "Israel."

Changes Since the Preliminary Results

Based on our analysis of comments received, and the Department's revised change in ownership approach that is based on the Court's ruling in Delverde III, we have made certain changes to the net subsidy rate. These changes are discussed in the relevant sections of the Decision Memorandum.

Final Results of Review

In accordance with 19 CFR 351.212 (b), we calculated an individual net subsidy rate for the producer/exporter subject to this review. For the period January 1, 1998 through December 31, 1998, we determine the net subsidy for Rotem to be 4.98 percent *ad valorem.* We will instruct the U.S. Customs (Customs) to assess countervailing duties as indicated above on all appropriate entries. Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate. Thus, for the period covered by this review, January 1, 1998, through December 31, 1998, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

As a result of the International Trade Commission's determination that revocation of this countervailing duty order would not likely lead to continuation or recurrence of material injury to an industry in the United States in the reasonably foreseeable future, the Department, pursuant to section 751(d)(2) of the Act, revoked the countervailing duty order on IPA from Israel. *See Revocation of Countervailing Duty Order: Industrial Phosphoric Acid from Israel,* 65 FR 114 (June 13, 2000). Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation was January 1, 2000. Accordingly, the Department has instructed Customs to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000. The Department, however, will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: March 5, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix I: Issues Discussed in Decision Memorandum

http://ita.doc.gov/import_admin/records/frn, under the heading "Israel."

I. Background Information
  Change in Ownership
II. Subsidies Valuation Information
  Grant Benefit Calculation
III. Analysis of Programs
  A. Programs Conferring Subsidies
  1. Encouragement of Industrial Research and Development Grants (EIRD)
  2. Encouragement of Capital Investment Law (ECIL)
  3. Infrastructure Grant
  B. Programs Determined to be Not Used
  1. Environmental Grant Program
  2. Reduced Tax Rates under ECIL
  3. ECIL Section 24 Loans
  4. Dividends and Interest Tax Benefits under Section 46 of the ECIL
  5. ECIL Preferential Accelerated Depreciation
IV. Analysis of Comments in Case Brief
  Comment 1: Allocation of Disbursements made in the POR for Previously Approved and Allocated Non-Recurring Grants
  Comment 2: Infrastructure Grants Net of Value Added Tax (VAT)
V. Analysis of Comments on Department's Change in Ownership Memorandum
  Comment 3: Delverde III Implications on Change in Ownership
  Comment 4: The Department's New Change in Ownership Approach

[FR Doc. 01–6911 Filed 3–20–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 87–15A04.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted originally to The Association for Manufacturing Technology ("AMT") on May 19, 1987. Notice of issuance of the Certificate was published in the **Federal Register** on May 22, 1987 (52 FR 19371).

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, at telephone (202) 482–5131 (this is not a toll-free number) or at E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2000).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate: Export Trade Certificate of Review No. 87–00004, was issued to The Association for Manufacturing Technology on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987); January 3, 1989 (54 FR 837, January 10, 1989); April 20, 1989 (54 FR 19427, May 5, 1989); May 31, 1989 (54 FR 24931, June 12, 1989); May 29, 1990 (55 FR 23576, June 11, 1990); June 7, 1991 (56 FR 28140, June 19, 1991); November 27, 1991 (56 FR 63932, December 6, 1991); July 20, 1992 (57 FR 33319, July 28, 1992); May 10, 1994 (59 FR 25614, May 17, 1994); December 1, 1995 (61 FR 13152, March 26, 1996); October 11, 1996 (61 FR 55616, October 28. 1996); May 6, 1998 (63 FR 31738, June 10, 1998); November 10, 1998 (63 FR 63909, November 17, 1998); and October 29, 1999 (64 FR 61276, November 10, 1999).

AMT's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): Merritech, Inc., Saginaw, Michigan; Mega Manufacturing, Inc., for the activities of its Piranha Division, Hutchinson, Kansas; New Nine, Inc., d/b/a GWI Engineering, Grand Rapids, Michigan; New Monarch Machine Tool Company, Cortland, New York; W.A. Whitney Co., Rockford, Illinois, (controlling entity: Esterline Technologies, Bellevue, Washington); Evana Automation, Inc., Evansville, Indiana, (controlling entity: Phillips Service Industries, Inc., Livonia, Michigan); Compact Manufacturing Systems, Santa Ana, California; ABB Flexible Automation, Inc., New Berlin, Wisconsin, (controlling entity: Asea Brown Boveri Inc., Norwalk, Connecticut); and Welduction Corporation, Novi, Michigan, (controlling entity: INDUCTOHEAT, Inc., Madison Heights, Michigan);

2. Delete the following companies as "Members" of the Certificate: Bramac Machine Tool Co.; Wysong & Miles Company; DeVlieg-Bullard Services Group, Inc.; Defiance Machine & Tool Co.; Dyna Mechtronics Inc.; and Easco Sparcatron; and

3. Change the two existing Members' names as follows: "Process Control Automation, Inc." is changed to "Hayes-Lemmerz Process Control Automation, Inc." and "Giddings & Lewis, Inc." is changed to "Gilman Engineering & Manufacturing Co."

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: March 16, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–7013 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

BEES Please

ACTION: Proposed collection; Comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506c(2)(A).

DATES: Written comments must be submitted on or before May 21, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Barbara C. Lippiatt, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Stop 8603, Gaithersburg, MD 20899–8603.

SUPPLEMENTARY INFORMATION:

I. Abstract

Over the last six years, the Building and Fire Research Laboratory of the National Institute of Standards and Technology (NIST) has developed and automated an approach for measuring the life-cycle environmental and economic performance of building products. Known as BEES (Building for Environmental and Economic Sustainability), the tool reduces complex, science-based technical content (e.g., up to 400 material and energy flows from raw material extraction through product disposal) to decision-enabling results and delivers them in a visually intuitive graphical format. BEES Please is a voluntary program to collect data from building product manufacturers so that the environmental performance of their products may be evaluated scientifically using BEES.

NIST will publish in BEES an aggregated version of the data collected from manufacturers that protects data confidentiality, subject to

manufacturer's review and approval. BEES measures environmental performance using the environmental life-cycle assessment approach specified in the ISO 14040 series of standards. All stages in the life of a product are analyzed: raw material acquisition, manufacture, transportation, installation, use, and recycling and waste management. Economic performance is measured using the American Society for Testing and Materials (ASTM) standard life-cycle cost method, which covers the costs of initial investment, replacement, operation, maintenance and repair, and disposal. Environmental and economic performance are combined into an overall performance measure using the ASTM standard for Multi-Attribute Decision Analysis.

II. Method of Collection

Data on materials use, energy consumption, waste, and environmental releases will be collected using an electronic, MS Excel-based questionnaire. An electronic, MS Word-based User Manual accompanies the questionnaire to help in its completion.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business.
Estimated Number of Respondents: 90.
Estimated Time Per Response: 62.5 hours.
Estimated Total Annual Burden Hours: 1875 hours.
Estimated Total Annual Cost to the Public: $0 (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to the notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Dated: March 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–6948 Filed 3–20–01; 8:45 am]
BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 00–1220361; I.D. 022801A]

0648–ZB03

Steller Sea Lion Research Initiative (SSLRI)

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

ACTION: Notice of availability of funds.

SUMMARY: NMFS announces that funding will be made available to assist eligible individuals and entities in carrying out research into the causes for the decline of Steller sea lions in waters off Alaska. NMFS issues this notice describing the conditions under which applications will be accepted and selected for funding. Areas of emphasis for the SSLRI Program were derived from specific legislative directives and supported through recommendations received from non-Federal scientific and technical experts and from NMFS research and operations officials.

DATES: Applications for funding under this program are due 5 p.m. Alaskan standard time on April 23, 2001. Applications received after that time will not be considered for funding. No facsimile or electronic applications will be accepted.

ADDRESSES: Send applications to Peter Jones, SSLRI Program, Program Office, NMFS Alaska Region, PO Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Peter Jones (907) 586–7280 or via email at: *peter.d.jones@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Authority

The Secretary of Commerce (Secretary) is authorized under 16 U.S.C. 1380 (d)(1) to undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. In the FY 2001 Consolidated Appropriations Act (Pub. L. 106-554, Miscellaneous Appropriations, Div. A, Chap. 2, Section 209(d)), Congress appropriated $20 million to the Secretary of Commerce for the development and implementation of a coordinated, comprehensive research and recovery program for the Steller sea lion. The purpose of this announcement is to invite the submission of applications for Federal assistance for research into the possible causes of the Steller sea lion decline in the Bering Sea, Gulf of Alaska, and Aleutian Island areas in accordance with Pub. L. 106-554 and to set forth how applications will be selected for funding.

II. Catalog of Federal Domestic Assistance

This program will be added to the "Catalog of Federal Domestic Assistance" (CFDA) under program number 11.439, Marine Mammal Data Program.

III. Program Description

A. Background

The western population of the Steller sea lion (*Eumetopias jubatus*) is listed as an endangered species under the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*). NMFS, in conjunction with the North Pacific Fishery Management Council, has jurisdiction over Federal fisheries management in the Exclusive Economic Zone off Alaska. NMFS also has stewardship responsibility to ensure the protection and recovery of the Steller sea lion. Several groundfish fisheries are conducted in the Bering Sea/ Aleutian Islands and the Gulf of Alaska regions which overlap the designated critical habitat of the Steller sea lion. NMFS conducted a formal consultation, pursuant to section 7 of the ESA, examining the likelihood that Federal commercial groundfish fisheries in prescribed Federal waters off Alaska may jeopardize the continued existence of the Steller sea lion and adversely modify or destroy designated critical habitat. A Biological Opinion released by NMFS on November 30, 2000 concluded that the fisheries for certain groundfish species jeopardize the continued existence of the western population of Steller sea lions and adversely modifies its critical habitat.

This information is provided to serve as a brief summary of the background of this research initiative, not as a comprehensive account of the circumstances surrounding this program's origins. For additional

information (including the full text of the ESA Section 7 Consultation Biological Opinion and the Recovery Plan for the Steller Sea Lion) please refer to research: *http://www.fakr.noaa.gov/protectedresources/stellers.htm*or contact Dr. Michael Payne, Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska, (907) 586–7236, Michael.Payne@noaa.gov.

Note: The applicant is responsible for obtaining all Federal, state, and local government permits and approvals for projects or activities to be funded under this announcement. This includes, as applicable, certification under state Coastal Zone Management Plans, section 404 or section 10 permits issued by the Corps of Engineers; experimental fishing or other permits under FMPs; scientific permits under ESA and/or the Marine Mammal Protection Act; and assistance to the Federal government in developing environmental impact statements to meet the requirements of the National Environmental Policy Act.

B. Objectives

The primary objective of the Steller Sea Lion Research Initiative is to provide support to non-Federal entities and individuals for research into the cause of the decline of the Steller sea lion and to develop conservation and protective measures to ensure recovery of the species. A secondary objective is that research products contribute immediate, short-term information relevant to adaptive fishery management strategies in the BS/AI and GOA groundfish fisheries. This does not preclude long-term research efforts that demonstrate a likelihood of (1) improving the understanding of the causes for decline, (2)advancing the ecosystem based knowledge of the species, or (3)improving technologies that would enhance research opportunities.

In an effort to develop a framework to organize the research commitments of various entities in the 2001 research season, the National Marine Fisheries Service has consulted with the National Ocean Service, the Office of Oceanic and Atmospheric Research, the Alaska SeaLife Center, the North Pacific Universities Marine Mammal Research Consortium, the North Pacific Fishery Management Council, the University of Alaska, and the State of Alaska regarding developing research areas. After careful consideration of the recommendations offered by each entity, it is the National Marine Fisheries Service position that the following set of six primary research areas best synthesize the hypothesis-driven research direction for the SSLRI program.

The hypothesis-driven model categorize research topics into the following six areas:

(1) Fisheries Competition Hypothesis;

(2) Environmental Change Hypothesis;

(3) Predation Hypothesis;

(4) Anthropogenic Effects Hypothesis;

(5) Disease Hypothesis; and

(6) Pollution Hypothesis.

These categories do not represent the Research Priority Areas of this solicitation notice, but they are discussed here because they relate to the funding priorities listed below and because they may be used by NMFS to integrate and coordinate SSLRI research activities approved through this notice. For more information on this, or a copy of the 2001 research matrix developed during the January 24–25, 2001, Steller Sea Lion Research Meeting, please contact Dr. Michael Payne, Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska, (907) 586–7236, Michael.Payne@noaa.gov

IV. Funding Availability

This solicitation announces that approximately $15 million is available in fiscal year (FY) 2001. There is no guarantee that sufficient funds will be available to make awards for all acceptable projects. Publication of this notice does not obligate NMFS to award any specific project or to obligate any available funds.

V. Matching Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required for the SSLRI program. If an applicant chooses to cost-share and if that application is selected for funding, the applicant will be bound by the percentage of the cost share reflected in the grant award.

VI. Type of Funding Instrument

The selection of a Funding Instrument (either grant or cooperative agreement) will be determined by the NOAA Grants Office in consultation with the NMFS/AKR Program Office. If the proposed research entails substantial involvement between the applicant and the NMFS, a cooperative agreement will be utilized. Under this agreement, the NMFS Alaska Program Office and Science Center will have substantial interactions with the applicant in planning and executing this project. This involvement may include the following:

1. Assisting in developing the research direction;

2. Providing access to data and resources;

3. Facilitating partnering with appropriate organizations;

4. Defining measures for evaluation of project performance; and

5. Providing direct involvement in helping to understand, define, and resolve problems in the project's operations.

VII. Duration of Funding and Award Period

Proposals will be accepted with a performance period ranging from 1 to 3 years. Proposed research activities must demonstrate the ability to achieve an outcome and product within the requested award period. An application accepted for funding does not obligate NMFS to provide additional future funding. The award period will depend upon the duration of funding requested by the applicant in the Application for Federal Assistance, the decision of the NMFS' selecting official on the amount of funding, the results of post-selection negotiations between the applicant and NOAA officials, and review of the application by NOAA and DOC officials.

VIII. Eligibility Criteria

A. Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial organizations, state, local, or Indian tribal governments, and individuals.

B. Federal agencies, Federal instrumentalities, including Regional Fishery Management Councils and their employees, Federal employees, including NOAA employees (full-time, part-time, and intermittent personnel or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation or to aid in the preparation of an application during the 30-day solicitation period, except to provide information about the SSLRI program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may affect an application. Potential applicants are encouraged to contact Peter Jones at the NMFS Alaska Region Program Office (see **ADDRESSES**) for information on NOAA programs.

IX. Indirect Costs

The Project Budget form may include an amount for indirect costs if the applicant has an established indirect

cost rate with the Federal government. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award, or 100 percent of the total proposed direct cost's dollar amount in the application, whichever is less. If applicable, a copy of the current, approved, negotiated indirect cost agreement with the Federal government must be included in the application.

X. Application Forms

Before submitting an application under the SSLRI Program, it is recommended that applicants contact the NMFS Alaska Region Office for a copy of this solicitation's Application Package (see **ADDRESSES**). The Application Package consists of the standard National Oceanic and Atmospheric Administration's forms, instructions, and guidelines (OMB Control Numbers: 0348–0043, 0348–0044, 0348–0046).

XI. Project Funding Priorities

Funding for a Steller Sea Lion Research Initiative was made available through an FY 2001 Federal appropriations which states:

$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designated to study–(1) available prey species; (2) predator/prey relationships; (3) predation by other marine mammals; (4) interactions between fisheries and Steller sea lions, including localized depletion theory; (5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea; (6) disease; (7) juvenile and pup survival rates; (8) population counts; (9) nutritional stress; (10) foreign commercial harvest of sea lions outside the exclusive economic zone; (11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and (12) the residual impacts of intentional lethal takes of Steller sea lions. Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

For the purpose of this solicitation, funding priorities are:

1. Available prey species;
2. Predator/prey relationships;
3. Predation by other marine mammals;
4. Interactions between fisheries and Steller sea lions, including localized depletion theory;
5. Regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea;
6. Disease;
7. Juvenile and pup survival rates;
8. Population counts;
9. Nutritional stress;
10. Foreign commercial harvest of sea lions outside the exclusive economic zone;
11. The residual impacts of former government-authorized Steller sea lion eradication bounty programs;
12. The residual impacts of intentional lethal takes of Steller sea lions; and
13. Feasibility study examining the development of innovative non-lethal measures to protect Steller sea lions from marine mammal predations including killer whales.

Examples of viable research topics that are subsets of the funding priorities include:

1. Field studies to assess the Steller sea lion "prey field" in known local areas;
2. Research to improve the measurement of the numbers of Steller sea lions;
3. The development of a probabilistic assessment of the simultaneous pursuit of prey by juvenile Steller sea lions and the fisheries;
4. The development of a population-dynamics model for the western stock of Steller sea lions;
5. Studies to estimate killer whale and shark predation of Steller sea lions, including population abundance studies of transient killer whales;
6. Studies to investigate the effects of environmental degradation, toxic substances, and/or other factors that may impair Steller sea lion endocrine, reproductive, and/or immune system functions;
7. Studies to investigate the effects of diet on Steller sea lion fitness and survival;
8. Studies examining the nutritional limitation of juvenile Steller sea lions, including comparative studies between juveniles in the eastern and western population;
9. Studies to determine current Steller sea lion food habitats, including seasonal changes in prey composition and prey size;
10. Studies to determine the ecological attributes that define spatial extent of sea lion critical habitat;
11. Research into current demographic rates, including age-specific survival and reproduction, juvenile recruitment, and body size;
12. Investigations into population subdivision and movement patterns based on molecular genetic techniques;
13. Research examining pregnant females supporting pups during winter season;
14. Development of new technologies to remotely monitor (across seasons) body condition, mortality, and patterns of spatially explicit foraging effort;
15. Studies to determine the utility of fatty acid signature analyses in quantifying seasonal food habits and the timing of weaning;
16. Analysis of historical satellite tag data to examine foraging depth and distance from rookeries;
17. Studies examining effect on the abundance, distribution, and composition of Steller sea lion prey at spatial and temporal scales pertinent to foraging sea lions;
18. Studies to determine the efficacy of fishery exclusion zones to improve Steller sea lion survival and reproductive rates;
19. Studies directed at determining is commercial fishing activities result in localized depletion of Steller sea lion prey on a scale important to foraging sea lions;
20. Studies that examine potential interactions between Steller sea lions and fisheries managed by the State of Alaska; and
21. Studies that investigate alternative hypotheses regarding historical and recent Steller sea lion population trends.

XII. Evaluation Criteria

A. Evaluation of Proposed Projects

1. *Initial Screening of Applications*: Upon receipt the NMFS Program Office will screen applications for conformance with requirements set forth in this notice. Applications which do not conform to the requirements may not be considered for further evaluation.

2. *Consultation with Interested Parties*: As appropriate, NMFS will consult with NMFS Offices, the NOAA Grants Management Division, Department of Commerce, and other Federal and state agencies, the North Pacific Fishery Management Council, and other interested parties who may be affected by or have knowledge of a specific proposal or its subject matter.

3. *Technical Evaluation*: NMFS will solicit individual technical evaluations of each project application from three or more NMFS scientists. The Technical Evaluation Team will be convened at the NMFS Alaska Region Office no later than one week from the closing date of application period. These reviewers will independently assign scores to applications based on the following evaluation criteria, with weights shown in parentheses:

a. *Soundness of Project Design/ Conceptual Approach.* Applications will be evaluated on the applicant's comprehension of the problem(s); the overall concept proposed for resolution; whether the applicant provided sufficient information to evaluate the project technically; and, if so, the strengths and/or weaknesses of the technical design relative to securing productive results. (50 percent)

b. *Project Management and Experience and Qualifications of Personnel.* The organization and management of the project, and the project's principal investigator and other personnel in terms of related experience and qualifications will be evaluated. Those projects that do not identify the principal investigator with his or her qualifications will receive a lower point score. (25 percent)

c. *Project Evaluation.* The effectiveness of the applicant's proposed methods to evaluate the project in terms of meeting its original objectives will be evaluated. (10 percent)

d. *Project Costs.* The justification and allocation of the budget in terms of the work to be performed will be evaluated. Unreasonably high or low project costs will be taken into account. (15 percent)

4. In addition to the above criteria, in reviewing applications that include consultants and contracts, NMFS will make a determination regarding the following:

a. Is the involvement of the primary applicant necessary to the conduct of the project and the accomplishment of its objectives?

b. Is the proposed allocation of the primary applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the primary applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

B. Constituency Panel Review

1. The Program Office will compile technical reviews and scores and present these to a second tier review referred to as the Constituency Panel.

2. In the event that the total amount of requested funding for all eligible applications is less than available funds, the Regional Administrator, Alaska Region in consultation with the Assistant Administrator for Fisheries, may elect to forgo the second tier review and proceed to negotiations with the applicants.

3. The Program Office will convene the Constituency Panel no later than one week following the conclusion of the Technical Evaluations. The Constituency Panel will comprise no fewer than three representatives to be recommended by the North Pacific Fishery Management Council and selected by the Regional Administrator, Alaska Region. Consistent with laws and regulations governing conflict of interest, composition of the constituency panel will consist of at least one representative from the Alaska fishing industry and one representative from an Alaska coastal community. At the discretion of the NMFS Program Office, the Constituency Panel may be separated into single or multiple priority areas for the purpose of expediting review and ensuring necessary subject expertise. After panel discussion of the overall proposal merits, the Constituency Panel members will individually rank the projects. The Constituency Panel is not tasked with reaching consensus on individual project merit. Considered in the rankings, along with the technical evaluation, will be (1) the significance of the proposed research as it will contribute to an understanding of the cause of the decline of Steller sea lion in their western range and (2) the ability of the proposed research to make an immediate or near-term contribution to the understanding of the relationship between the Steller sea lion and fisheries of the North Pacific. Each panelist will rank each project (on a scale of 1 being the lowest to 5 being the highest) in terms of importance or need for funding and provide recommendations on (1) the level of funding and (2) the merits of funding for each project.

XIII. Selection Procedures

After projects have been evaluated and ranked, the NMFS Program Office will develop recommendations for project funding. After projects have been evaluated and ranked, the recommendations will be submitted to the Regional Administrator, Alaska Region, who will, in consultation with the Assistant Administrator for Fisheries, determine the projects to be funded, ensuring that there is no duplication with other projects funded by NOAA or other Federal organizations and that the projects selected for funding are those that best meet the objectives of the Steller Sea Lion Research Initiative.

The exact amount of funds awarded to a project will be determined in pre-award negotiations among the applicant, NMFS Program Office, and NOAA Grants Office. Projects should not be initiated in expectation of Federal funding until a notice of award document is received. Although considerable effort will be made to expedite the review, selection, negotiation, and approval process in order to meet the 2001 research season, applicants are to be advised that, following the project selection, there is an additional review process by NOAA Grants Management Division that can extend beyond 60 days. It is recommended that applicants not request a project start date before June 1, 2001.

XIV. Other Requirements

A. *Federal policies and procedures.* Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards. Women and minority individuals and groups are encouraged to submit applications under this program.

Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

B. *Past performance.* Any first-time applicant for Federal grant funds is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

C. *Pre-award activities.* If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

D. *No obligation of future funding.* If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of

performance is at the total discretion of DOC.

E. *Delinquent Federal debt.* No Federal funds will be awarded to an applicant or to its subrecipients who have any outstanding debt or fine until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DOC are made.

F. *Name check review.* All non-profit and for-profit applicants are subject to a name-check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, such criminal charges as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or of other similar credit checks.

G. *Primary applicant certifications.* All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. Nonprocurement debarment and suspension. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and to the related section of the certification form prescribed here;

2. Drug-free workplace. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and to the related section of the certification form prescribed here;

3. Anti-lobbying. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." The lobbying section of the CD-511 applies to applications/bids for grants, cooperative agreements, contracts for more than $100,000, and to loans and loan guarantees for more than $150,000.

4. Anti-lobbying disclosures. Any applicant who has paid or will pay for lobbying using any funds must submit a Form SL-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

H. *Lower tier certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. A form SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

I. *False statements.* A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

J. *Intergovernmental review.* Applications under this program are subject to the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs."

K. *American-made equipment and products.* Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts.

Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

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

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Federal participation under the SSLRI Program may include the assignment of DOC scientific personnel and equipment.

This notice contains information collection requirements which are subject to the Paperwork Reduction Act. The use of Standard Form 424, 424A, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Authority: Pub. L. 106-554, 16 U.S.C. 1380.

Dated: March 14, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–7022 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031401A]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in April, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Thursday, April 5, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The agenda will include discussion and development of a coordination mechanism between the Council's Research Steering Committee and the industry-based survey (and related projects), cod tagging and bycatch/discard/conservation engineering programs currently in the planning stages. The committee also will discuss planning for future regional research needs, including funding requirements.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the

public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 16, 2001.

Richard W. Surdi,

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

[FR Doc. 01–7023 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

March 15, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 22, 2001

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://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 reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69503, published on November 17, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on March 22, 2001, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334/634	858,597 dozen.
336/636/836	565,532 dozen.
338/339	1,717,198 dozen.
340/640	1,486,172 dozen.
341/641	2,446,325 dozen of which not more than 1,727,528 dozen shall be in Category 341 and not more than 1,727,528 dozen shall be in Category 641.
342/642/842	892,942 dozen.
347/348/847	1,381,558 dozen.
350/650	160,271 dozen.
351/651	443,914 dozen.
363	16,599,555 numbers.
369–S [2]	1,038,540 kilograms.
635	503,713 dozen.
638/639/838	1,223,639 dozen.
647/648	1,473,117 dozen.
840	384,607 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] 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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–7000 Filed 3–20–01; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Safety Standard for Bicycle Helmets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of bicycle helmets. The collection of information is in regulations implementing the Safety Standard for Bicycle Helmets (16 CFR Part 1203). These regulations establish testing and recordkeeping requirements for manufacturers and importers of bicycle helmets subject to the standard. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than May 21, 2001.

ADDRESSES: Written comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland, 20814. Alternatively, comments may be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov. Comments should be captioned "Bicycle Helmets."

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of approval of the collection of information, or to obtain a copy of 16 CFR Part 1203, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0416, extension 2226, or by e-mail to lglatz@cpsc.gov.

SUPPLEMENTARY INFORMATION: In 1994, Congress passed the "Child Safety Protection Act," which, among other things, included the "Children's Bicycle Helmet Safety Act of 1994" (Pub. L. 103–267, 108 Stat. 726). This law directed the Commission to issue a final standard applicable to bicycle helmets that would replace several existing voluntary standards with a single uniform standard that would include provisions to protect against the risk of helmets coming off the heads of bicycle riders, address the risk of injury to

children, and cover other issues as appropriate. The Commission issued the final bicycle helmet standard in 1998. It is codified at 16 CFR Part 1203.

The standard requires all bicycle helmets manufactured after March 10, 1999, to meet impact-attenuation and other requirements. The standard also contains testing and recordkeeping requirements to ensure that bicycle helmets meet the standard's requirements. Certification regulations implementing the standard require manufacturers, importers, and private labelers of bicycle helmets subject to the standard to (1) perform tests to demonstrate that those products meet the requirements of the standard, (2) maintain records of those tests, and (3) affix permanent labels to the helmets stating that the helmet complies with the applicable standard. The certification regulations are codified at 16 CFR Part 1203, Subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of bicycle helmets subject to the standard to help protect the public from risks of injury or death associated with head injury associated with bicycle riding. More specifically, this information helps the Commission determine whether bicycle helmets subject to the standard comply with all applicable requirements. The Commission also uses this information to obtain corrective actions if bicycle helmets fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

The Office of Management and Budget (OMB) approved the collection of information in the certification regulations under control number 3041–0127. OMB's most recent extension of approval will expire on July 31, 2001. The Commission now proposes to request an extension of approval without change for the collection of information in the certification regulations.

B. Estimated Burden

The Commission staff estimates that approximately 30 firms manufacture or import bicycle helmets subject to the standard. The Commission staff estimates that the certification regulations will impose an average annual burden of about 1,000 hours on each of those firms. That burden will result from conducting the testing required by the regulations and maintaining records of the results of that testing. The total annual burden imposed by the regulations on manufacturers and importers of bicycle helmets is approximately 30,000 hours. However, the Commission staff is unable to estimate the total dollar cost incurred by the industry for compliance with the standard.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: March 15, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–7041 Filed 3–20–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: March 29–30, 2001.

ADDRESSES: RAND, 1200 South Hayes Street, Arlington, VA 22202–5050.

PROPOSED SCHEDULE AND AGENDA: Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 8:30 a.m. until 5:00 p.m. on March 29, 2001, and from 8:30 a.m. until 3:30 p.m. on March 30, 2001. The meeting will include classified briefings on cyber terrorism and, therefore, portions of the meeting will be closed to the public. Time will be allocated for public comments by individuals or organizations.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its web site at *http://www.rand.org/organization/nsrd/terrpanel;* it can also be reached at (703) 413–1100, extension 5282. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Priscilla Schlegel, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: March 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–6992 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Change in Meeting Date of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting.

DATES: The meeting will be held at 9–10:30 am, Thursday, May 3 and 2–5 pm, Friday, May 4, 2001.

ADDRESSES: The meeting will be held Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defensed Advanced Research Projects Agency and the Military Departments in planning and managing an effective

research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. app. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–6995 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Election Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 9 a.m., Tuesday, April 24, 2001.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. app. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 14, 2001.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 01–6996 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, March 28, 2001.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review ill include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–6997 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Historical Advisory Committee; Meeting

AGENCY: Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Historical Records Declassification Advisory Panel (HRDAP). The purpose of this meeting is to discuss recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit to the public if declassified. This is the first session held in 2001. The OSD Historian will chair this meeting.

DATES: Friday, March 30, 2001.

TIME: The meeting is scheduled 9 a.m. to 3 p.m.

ADDRESSES: The National Archives Building, Room 105, 7th Street and Pennsylvania Avenue, NW., Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: CDR Randy Lovdahl, Office of the Deputy Assistant Secretary of Defense (Security and Information Operations), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20302–6000, telephone (703) 602–0980, ext. 168.

Dated: March 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–6993 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on April 3, 2001; April 10, 2001; April 17, 2001; and April 24, 2001, at 10 am in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings satisfy the criteria for closure to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: March 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–6994 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Spring 2001 Conference Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming semi-annual conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Spring 2001 DACOWITS Conference is to assist the Secretary of Defense on matters relating to women in the Services. Conference sessions will be held daily and will be open to the public, unless otherwise noted below.

DATES: April 18–22, 2001.

ADDRESSES: Sheraton Premiere Hotel at Tysons Corner, 8861 Leesburg Pike, VA 22181; Telephone: (703) 448–1234.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Susan E. Kolb, ARNG, or Master Sergeant Verena Sander, USA, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122 or E-Mail: *verena.sander@osd.mil.*

SUPPLEMENTARY INFORMATION: The following rules will govern the participation by members of the public at the conference:

(1) Members of the public will not be permitted to attend the DoD Luncheon, DoD Reception and Dinner and Conference Field Trip.

(2) The Opening Session, General Session, all Subcommittee Sessions, Tri-Committee Review, and the Voting Session will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the conference.

(4) Persons desiring to make an oral presentation of to submit a written statement to the Committee must notify the point of contact listed above no later than April 4, 2001.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral presentations by members of the public will be permitted only on Sunday, April 22, 2001, before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office with one (1) copy of the presentation by April 4, 2001 and bring 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one (1) copy of the statement by the close of the conference on Sunday, April 22, 2001.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Military Director, DACOWITS and Military Women Matters, for consideration.

(10) Members of the public will not be permitted to enter oral discussions conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) After the official participants have asked questions and/or made comments to the scheduled speakers, members of the public will be permitted to ask questions if recognized by the Chair and if time allows.

(12) Non-social agenda events that are not open to the public are for administrative matters unrelated to substantive advice provided to the Department of Defense and do not involve DACOWITS deliberations or decision-making issues before the Committee. Conference sessions will be conducted according to the following agenda:

Wednesday, April 18, 2001

Conference Registration

Field Trip (DACOWITS Members Only)

Subcommittee Rules and Procedures Meeting (DACOWITS Members Only)

Thursday, April 19, 2001

Opening Ceremony, Women's Memorial, Arlington, VA (Open to Public)

DoD Luncheon (Invited Guests Only)

Subcommittee Sessions (Open to Public)

Friday, April 20, 2001

Subcommittee Sessions (Open to Public)

Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)

DoD Reception and Dinner (Invited Guests Only)

Saturday, April 21, 2001

Tri-Committee Session (Open to Public)

Subcommittee Sessions (Open to Public)

Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)

Sunday, April 22, 2001

Final Review (Open to Public)

Voting Session (Open to Public)

Dated: March 15, 2001.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–6998 Filed 3–20–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Notice of Availability of the "Annual Report to Congress on the Status of the Harbor Maintenance Trust Fund for Fiscal Year 1999"

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: This notice is to inform the general public of the availability of the "Annual Report to Congress on the Status of the Harbor Maintenance Trust Fund for Fiscal Year 1999." A copy of the report may be obtained free of charge by contacting Mr. James D. Hilton. The report is also available on the Corps web site at http://www.wrsc.usace.army.mil. Click on Products and then click on reports. From the reports menu click on Navigation Analysis.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Hilton, Operations Division, Office of the Chief of Engineers, at (202) 761–4669, fax (202) 761–1685, or e-mail James.D.Hilton@usace.army.mil.

SUPPLEMENTARY INFORMATION: The Harbor Maintenance Fee was authorized under sections 1401 and 1402 of the Water Resources Development Act of 1986, Public Law 99–662. This law imposed a 0.04 percent fee on the value of commercial cargo loaded (exports and domestic cargo) or unloaded (imports) at ports which have had Federal expenditures made on their behalf by the U.S. Army Corps of Engineers since 1977. Section 11214 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–580, increased the Harbor Maintenance Fee to 0.125 percent, which went into effect on January 1, 1991. Harbor Maintenance Trust Fund monies are used to pay up to 100 percent of the Corps eligible Operations and Maintenance expenditures for the maintenance of commercial harbors and channels. Section 201 of the Water Resources Development Act of 1996, Public Law 104–303, expanded the use of Harbor Maintenance Trust Fund monies to pay Federal expenditures for construction of dredged material disposal facilities necessary for the operation and maintenance of any harbor or inland harbor; dredging and disposing of contaminated sediments that are in or that affect the maintenance of Federal navigation channels; mitigating for impacts resulting from Federal navigation operation and maintenance activities; and operating and maintaining dredged material disposal facilities.

Section 330 of the Omnibus Budget Reconciliation Act of 1992, Public Law 102–580, requires that the President provide an Annual Report to Congress on the Status of the Trust Fund. The release of this report is in compliance with this legislation.

Dated: March 7, 2001.

Alfred H. Foxx,

Colonel, Corps of Engineers, Executive Director for Civil Works.

[FR Doc. 01–7042 Filed 3–20–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–271–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 15, 2001.

Take notice that on March 13, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets listed in Appendix A to the filing, with a proposed effective date of April 1, 2001.

ESNG states the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation under its Rate Schedules GSS and LSS and Columbia Gas Transmission Corporation under its Rate Schedule SST. The costs of the above referenced storage services comprise the rates and charges payable (or a portion thereof) under ESNG's respective Rate Schedules GSS, LSS and CFSS, respectively. This tracking filing is being made pursuant to Section 3 of ESNG's respective Rate Schedules GSS, LSS and CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6960 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1441–000 and OA96–73–004]

Florida Power Corporation; Notice of Filing

March 15, 2001.

Take notice that on February 28, 2001, Florida Power Corporation filed a Settlement Agreement and accompanying materials in the above-captioned proceedings.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 22, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web

site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–7002 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR01–9–000]

Cranberry Pipeline Corporation; Notice of Petition for Rate Approval

March 15, 2001.

Take notice that on February 23, 2001, Cranberry Pipeline Corporation (Cranberry) filed, pursuant to section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve: (1) a system-wide rate of 81.47 cents per MMBtu applicable to interruptible transportation service rendered on its system in the State of West Virginia; (2) a rate for Hub Service of 7.74 cents per MMBtu; and (3) a $50 low flow meter fee. These rates will be applicable to the transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

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, 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). All motions must be filed with the Secretary of the Commission on or before March 30, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.200(a)(1)(iii) and the instruction on the Commission's web site at http://www.ferc.fed.us.efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–7005 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–79–00]

ANR Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Badger Pipeline Project and Request for Comments on Environmental Issues

March 15, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Badger Pipeline Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Racine and Kenosha Counties, Wisconsin.[1] These facilities consist of about 22.3 miles of 20-inch-diameter pipeline, valves, a meter station, crossover piping, and pig trap launcher/receiver assemblies. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice ANR provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

ANR is proposing the Badger Pipeline Project to provide 210,000 Mcfd of gas to Badger Generating Company, LLC's (Badger) proposed 1,050 megawatt gas-fired power plant to be constructed in the Village of Pleasant Prairie in Kenosha County, Wisconsin. To serve Badger's needs, ANR proposes to construct the following new facilities:

- about 12.8 miles of 20-inch-diameter pipeline loop[2] along ANR's existing 10- and 12-inch-diameter Racine Laterals between Mainline Valve No. 8 (milepost (MP) 0.0) in Burlington Township, Racine County and the existing Somers Meter Station (MP 12.8) in Paris township, Kenosha County;
- about 9.5 miles of 20-inch-diameter pipeline lateral[3] would be located adjacent to existing rights-of-way (gas pipelines, a 345 kV electric transmission line, and the Chicago, Milwaukee, St. Paul and Pacific Railroad) between the Somers Meter Station (MP 12.8) and the proposed Badger Plant (MP 22.3) in Pleasant Prairie Township, Kenosha County; and
- aboveground facilities consisting of a pig trap/launcher assembly at the tie-in of the proposed pipeline (MP 0.0); a mainline valve and crossover piping at the existing Somers Meter Station (MP 12.8); and a meter station, valve, and pig trap/receiver assembly to be located at the proposed Badger Plan site (MP 22.3).

The general location of ANR's proposed facilities is shown on the map attached as appendix 1.[4]

Land Requirements for Construction

Construction of ANR's proposed pipeline loop and lateral would require about 212.5 acres of land. ANR proposes to use a 75-foot wide construction right-of-way, and retain a 50-foot wide permanent pipeline right-of-way. Total land requirements for the permanent

[1] ANR's application was filed with the Commission on February 1, 2001, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

[3] A lateral is a pipeline which branches away from the central or primary part of the pipeline system.

[4] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available on the Commission's website at the "RIM" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

right-of-way would be about 135.2 acres. Construction of the proposed aboveground facilities would affect about 1.9 acres of land and permanent operation of these facilities would require about 1.2 acres of land. All temporary work space would be allowed to revert to its original land use. Twelve existing private roads are proposed for access to the proposed pipeline corridor during the construction of the pipeline loop and lateral. Two existing commercial/industrial facility sites, one about 8 acres in size and the other about 10 acres in size, have been identified for use as contractor staging yards during construction.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources and wetlands
- vegetation and wildlife
- threatened and endangered species
- cultural resources
- land use
- reliability and safety

We will evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary view of the proposed facilities and the environmental information provided by ANR. This preliminary list of issues may be changed based on your comments and our analysis.

- Water Resources and Wetlands

—Crossing 7 perennial and 5 intermittent streams.
—Crossing 18 wetlands, including 0.5 acre of forested wetland.

- Vegetation

—About 2.3 acres of upland forest to be cleared.
—Potential impact on Federal- and State-listed endangered eastern prairie fringed orchid.

- Cultural Resources

—One site may be eligible for the National Register of Historic Places.
—Potential impacts to 19 Native American and one 19th century Euro-American sites.

- Soils About 19.2 miles of the pipeline right-of-way have soils with a high potential for compaction. Crossing about 15.4 miles of prime farmland.

- Land Use

— Impact on residential areas (7 residences within 50 feet of the construction work area for the proposed pipeline loop and 13 residences within 50 feet of the construction work area for the proposed pipeline lateral).
— Crossing two recreational areas, a golf course, and a correctional facility.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific you comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas 1, PJ–11.1;
- Reference Docket No. CP01–79–000; and
- Mail your comments so that they will be received in Washington, DC on or before April 16, 2001.

Comments, protests and interventions may also 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* under the link to the User's Guide. Before you can file electronically you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be removed from the environmental mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC

website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–6956 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–92–000]

East Tennessee Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Gateway Project and Request for Comments on Environmental Issues

March 15, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Gateway Project involving construction and operation of facilities by East Tennessee Natural Gas Company (East Tennessee) in Washington County, Virginia, and Overton, Fentress, Loudon and Putnum Counties, Tennessee.[1] These facilities would consist of about 2.23 miles of 12-inch-diameter pipeline, replacement of seven road crossings, and the installation of a gas cooler, regulation and control facilities. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice East Tennessee provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

East Tennessee wants to expand the capacity of its facilities in Virginia and Tennessee to render firm natural gas transportation service for 1,000 dekatherms per day (Dth/d) to Etowah Utility Department, 3,000 Dth/d to Loudon Utilities Gas Department, and 4,000 Dth/d to Stone Mountain Energy, LC. East Tennessee seeks authority to construct and operate:

Virginia Facilities

- About 2.23 miles of 12-inch-diameter pipeline loop (Loop 1) from Valve Section (VS) 3310–2+Milepost (MP) 0.00 to MP 2.23 in Washington County, Virginia.

Tennessee Facilities

- An increase in maximum allowable operating pressure (MAOP) of 4.56 miles of existing 22-inch-diameter pipeline from main line valve (MLV) 3107–1 to MLV 3107–1A, which includes one road crossing replacement;
- An increase in MAOP of 12.85 miles of existing 22-inch-diameter pipeline from MLV 3107–1A to MLV 3108–1, which includes six road crossings replacements and hydrotesting of the pipeline section from MLV 3107–1A to MLV 3108–1;
- Pressure control facilities at the beginning of the Monterey Lateral, VS 3107+4.56;
- A gas cooler at Monterey Station, VS 3107; and
- Regulation at the Loudon M&R, VS 3218D–102.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 30.9 acres in Virginia and about 18.2 acres in Tennessee for a total of about 49.1 acres in land. No new aboveground facility sites would be constructed in either Virginia or Tennessee, therefore, no new permanent operation impacts would result. East Tennessee would continue to maintain the existing 11.1 acres of permanent right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Air quality and noise.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on

[1] East Tennessee's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting the RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by East Tennessee. This preliminary list of issues may be changed based on your comments and our analysis.

- The location of four residences within 50-feet of the proposed construction right-of-way.
- Five federally listed endangered or threatened species may occur in the proposed project area.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA/EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 1, PJ–11.1
- Reference Docket No. CP00–92–000.
- Mail your comments to that they will be received in Washington, DC on or before April 16, 2001.

Comments, protests and interventions may also 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* under the link to the User's Guide. Before you can file comments or interventions you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–7003 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

March 15, 2001.

Take notice that the following applications have been filed with the Commission and are available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2210–052, –053, –054, –055, –056, –057, –058, –059, –060, –061, and –064.

c. *Date Filed:* January 23, 2001 and February 21, 2001 (– 64).

d. *Applicant:* American Electric Power (AEP).

e. *Name of Project:* Smith Mountain.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Frank M. Simms, Fossil and Hydro Operations, American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223–2918.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Brian Romanek at (202) 219–3076.

j. *Deadline for filing comments and or motions:* April 20, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.W., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm

Please include the specific project number (P–2210–052, –053, –054, –055, –056, –057, –058, –059, –060, –061, or –064) on any comments or motions filed. Use only the project number for which you are making reference.

k. *Description of Request:* The following applications are filed by American Electric Power for the purpose of obtaining Commission authorization to allow the indicated uses of project lands and waters at the Smith Mountain Project. The described facilities are in various stages of development from fully to partially completed.

P–2210–052—Bass Cove New Properties, located adjacent to the Bass

Cove subdivision, located east of Tom Branch Cove off Craddock Creek in Bedford County. As-built, the facility includes eight new covered boat slips added to an existing stationary dock containing 16 covered boat slips.

P–2210–053—Bernard's Landing Comprehensive Property Owners Association facilities, located at the terminus of Route 616 peninsula accessing both the Roanoke and Blackwater Rivers in Franklin County. As-built, the facilities include three new adjacent boathouses with a total of twenty boat slips.

P–2210–054—Blue Ridge Recreation Inc. facilities, located at Bay Roc Marina on the south side of the Roanoke River at its intersection with Route 634 in Franklin County. As-built, the facilities include nine new commercial boat slips and a walkway making a total of 80 boat slips at the site.

P–2210–055—Highland Pointe Condominium Unit facilities, located on a small cove west of Bull Run tributary in Franklin County. As-built, the facilities include a 206 square foot stationary dock.

P–2210–056—J.W. Development, Inc. facilities, located near the end of Craddock Creek (just north of the C–6 Channel marker) in Bedford County. As-built, the facilities include two new boathouses with 24 boat slips each.

P–2210–057—Marina Bay Condo Unit Owners (Edie Greene) facilities, located near the end of little Bull Run in Franklin County. As-built, the facilities include a new stationary dock, floating dock, and a gazebo.

P–2210–058—Marina Bay Condo Unit Owners (Willard Construction Company) facilities, located near the end of little Bull Run in Franklin County. As-built, the facilities include two (2) new boat slips and an existing boathouse with 36 boat slips.

P–2210–059—Ryals-Jordan Inc. facilities, located north of Walton Creek at its confluence with Merriman's Creek (north of the R–21 channel maker) in Bedford County. As-built, the facilities include a new addition to an existing commercial dock that serves the Virginia Dare dinner boat.

P–2210–060—Webster Marine Center, Inc. facilities, located on the Roanoke River northeast of its intersection with Route 122 (Hales Ford Bridge) in Bedford County. As-built, the facilities include three new boat slips added to an existing complex of 41 boat slips.

P–2210–061—Westlake Properties facilities, located on the south side of Indian Creek, east of the Roanoke River in Franklin County. As-built, the facilities include seven sets of docks with six boat slips and two floating docks, one set of four boat slips, and two additional floating docks, one with 46 boat slips and the other with 16 slips.

P–2210–064—Mariner's Landing at the 6th Fairway (J.W. Holdings) located on a small cove off of Craddock Creek in Bedford County. As-built, the facilities include a covered stationary boathouse with 8 boat slips.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling 202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFS 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–6957 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

March 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2413–043.

c. *Date Filed:* January 2, 2001.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Wallace Dam.

f. *Location:* The Wallace Dam Project is located on the Oconee River in Putnam, Hancock, Greene, Morgan, Oconee, and Oglethorpe Counties, Georgia. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant's Contact:* Mike Phillips, Georgia Power Company, 241 Ralph McGill Boulevard NE, Atlanta, GA 30308–3374, (404) 506–2392.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Sean Murphy, e-mail address *sean.murphy@ferc.fed.us,* or telephone 202–219–2964.

j. *Deadline for filing comments, motions, to intervene and protest:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, 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 website at *http://www.ferc.fed.us/efi/doorbell.htm.*Please include the project number (P–2413–043) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on the official service list for the project. Further, if an intervener files comments

or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervener also must serve a copy of the document on that resource agency.

k. *Description of Amendment:* Georgia Power Company, licensee for the Wallace Dam Project, requests Commission authorization to permit the City of Greensboro, GA, to increase the rate of water withdrawal at their intake facility from 3.8 cubic feet per second (cfs)[1], 2.45 million gallons per day (MGD), from Lake Oconee, to 3.3 MGC.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h, above.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the subject application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR THE TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the project name and number, "Martin Dam Amendment of License, No. 349–070". Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon the representative of the APC specified in item h, above.

[1] FERC 25 ¶62,058, Order Approving Change in Land Rights, issued July 29, 1980.

David P. Boergers,

Secretary.

[FR Doc. 01–6958 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications For Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 15, 2001.

Take notice that the following applications have been filed with the Commission and are available for public inspection.

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2210–066.

c. *Date Filed:* February 21, 2001.

d. *Applicant:* American Electric Power (AEP).

e. *Name of Project:* Smith Mountain.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Frank M. Simms, Fossil and Hydro Operations, American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223–2918.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Brian Romanek at (202) 219–3076.

j. *Deadline for filing comments and or motions:* April 20, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm

k. *Description of Request:* Please incude the specific project number (P–2210–066) on any comments or motions filed.

American Electric Power proposes to permit J.W. Development, Inc. to construct 182 boat slips within the project boundary to provide access to the project reservoir for residents of the Mariner's Landing Development located adjacent to but outside of the project boundary and for patrons of a hearby restaurant. The sliips would be constructed at three locations along the shore (138 slips at Michell's Cove, 40 slips at The Pointe, and 4 slips at the 6th Fairway or Mononacan Shores).

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other commenets filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be rreceived on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–7004 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–337–000, Docket No. RP01–190–000 (not consolidated)]

Kern River Gas Transmission Company; Notice Rescheduling Technical Conference

March 15, 2001.

On January 5, 2001, Kern River Gas Transmission Company (Kern River) filed pro forma tariff sheets proposing the pipeline's segmentation policy in compliance with Order No. 637 and as discussed during a technical conference held on October 12, 2000. Kern River's segmentation filing has been protested.

On December 28, 2000, Kern River submitted pro forma tariff sheets to establish a mechanism in its tariff for converting the maximum daily quantities (MDQs) stated in its transportation service agreements to demand maximum daily quantities (DMDQs), transportation maximum daily quantities (TMDQs), and Receipt and Delivery Point Entitlements. This filing was also protested.

Take notice that the technical conference will take place on Tuesday, April 17, 2001, at 9:30 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

In the interest of convenience for the parties involved, a second technical conference to address issues raised in Docket No. RP01–190–000 will begin on Tuesday, April 17, 2001, at 1:30 pm, directly following the segmentation conference, and will continue through Wednesday, April 18, 2001, if necessary. Parties protesting aspects of either or both of Kern River's filings should be prepared to discuss alternatives.

All interested persons and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 01–6959 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–36–000; Docket No. CP01–52–000]

Zia Natural Gas Company v. Raton Gas Transmission Company, Raton Gas Transmission Company; Notice of Technical Conference

March 15, 2001.

A technical conference will be held to discuss issues raised in the above-captioned proceedings on Wednesday, April 11, 2001, at 9:30 a.m. in Room 3M3, at the office of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested persons and Staff are permitted to attend. However, attendance does not confer party status.

For additional information, contact Timothy Gordon at (202) 208–2265.

David P. Boergers,

Secretary.

[FR Doc. 01–7006 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–47–000]

Removing Obstacles To Increased Electric Generation and Natural Gas Supply in The Western United States; Order Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States and Requesting Comments on Further Actions to Increase Energy Supply and Decrease Energy Consumption; Before Commissioners: Curt Hébert, Jr., Chairman; William L. Massey, and Linda Breathitt.

Issued March 14, 2001.

Introduction

In this order, the Commission announces certain actions it is taking within its regulatory authorities under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act, and the Interstate Commerce Act to help increase electric generation supply and delivery in the Western United States,[1] in order to protect consumers from supply disruptions. In light of the severe electric energy shortages facing California and other areas of the West in recent months, which are likely to prevail into the foreseeable future, the Commission has examined all of its rate and facility certification authorities in the areas of electric energy, natural gas, hydroelectric and oil to determine how it can help increase electric energy supply.

We have examined both electric supply-side and demand-side actions that need to be taken, as well as how to best assure the input of natural gas needed for electric power production. While our authorities are somewhat limited, we are taking steps to immediately help increase supply from existing power sources and to provide regulatory incentives to build new electric and natural gas infrastructure.[2] California's dependence on electric generation and natural gas resources located in other states and the impact that California's energy shortage is having throughout the Western Interconnection underscores the regional, interstate nature of the energy marketplace.

The Commission recognizes that the actions announced here, by themselves, will not solve the electricity crisis facing California and other areas of the West and will not prevent electricity blackouts in the summer of 2001. However, we wish to elicit whatever additional electric supply there is from existing resources and, equally important, to identify and work constructively on medium and longer term solutions, including new infrastructure that can help avert future recurrences of the current electric supply shortage in the West. Of course, our efforts are only a small part of the electric supply picture, since State regulators, not this Commission, have siting authority for electric generation and transmission facilities, as well as for natural gas local distribution facilities. Moreover, State regulators have the most significant authorities to encourage demand reduction measures. Accordingly, as discussed below, the Commission intends to meet with State regulators this spring.

In summary, this order provides for or describes the following actions effective on the date of issuance of this order. Except as specifically noted in the text,

[1] For purposes of this order, we are concerned with what actions may affect electricity supply and demand in the United States portion of the Western Interconnection, which is the area encompassed within the United States portion of the Western Systems Coordinating Council (WSCC).

[2] We recognize that the States are also working on these issues, as exemplified by the Western Governors' Action Plan, and this Order is intended to complement what the states are doing. *See* Western Governors' Association website at *http://www.westgov.org/wieb/power/index.htm.*

these actions expire on December 31, 2001:

- Requires the California ISO and transmission owners within the WSCC to prepare and file a list of grid enhancements that can be completed in the short term.
- Extends and broadens the temporary waivers of operating and efficiency standards, and fuel use requirements, for qualifying facilities through December 31, 2001.
- Waives prior notice requirements and grants authorization of market-based rates, through December 31, 2001, for wholesale power sales from generation used primarily for back-up and self generation and located at businesses within the WSCC.
- Authorizes wholesale customers and retail customers (where permitted under state rules) who reduce consumption to resell their load reduction at wholesale at market-based rates.
- Waves the prior notice requirements for wholesale contract modifications to facilitate demand-side management.
- Where there are cost-based wholesale rates in effect subject to a formula, the Commission will permit DSM costs to be treated consistently with other types of incremental and out-of-pocket costs.
- The Commission has realigned its staff to be able to respond as quickly as possible to applications for new gas pipeline capacity.
- The Commission staff will hold a conference this spring to discuss with hydroelectric licensees, agencies, and others the possibility of increased generation consistent with environmental protection.
- The Commission urges all FERC hydroelectric licensees in the WSCC to immediately examine their projects and propose any efficiency modifications that may increase generation. The licensees should detail to the Commission any environmental impacts, including impacts from changes to discretionary operations, that could occur if there are changes resulting from proposed efficiency modifications.

The Commission seeks comment on the following proposals, which, unless specifically noted otherwise, would apply through December 31, 2001:

- Premiums on equity returns, and 10-year depreciation, for projects that increase transmission capacity in the short term.
- Premiums on equity returns, and 15-year depreciation, for transmission upgrades involving new rights of way that can be in service by November 1, 2002.
- Premiums on equity returns for new interconnection facilities required for new entrants that can be in service by November 1, 2002.
- Allowed revenue recovery for non-capital intensive expenditures made to increase transmission capacity on constrained interfaces.
- Allowing rolling in of interconnection and upgrade costs associated with new supply, rather than directly assigning such costs to the generator.
- Use of the interconnection authority contained in section 210(d) of the Federal Power Act to help alleviate impediments to electric supply reaching load.
- Waiving the blanket certificate regulations to increase the dollar limitations for natural gas facilities under automatic authorization to $10 million and for prior notice authorizations to $30 million.
- Offering blanket certificates for construction or acquisition and operation of portable compressor stations to enhance pipeline capacity to California.
- Offering rate incentives to expedite construction of projects that will make additional capacity available this summer on constrained pipeline systems.
- Allowing for greater operating flexibility at licensed hydrolectric projects to increase generation while protecting environmental resources.

I. Electric Generation and Transmission

The problems that California and the West have been experiencing with regard to electricity supply/demand imbalances and high market prices result from transmission constraints, generation inadequacy, and inadequate demand-side response. The actions described in this section address those factors.

A. Electric Transmission Infrastructure

Our December 15 Order on California electricity issues [3] implemented several immediate measures designed to stabilize the California markets. The elimination of the requirement that the investor-owned utilities (IOUs) sell all of their resources into and buy all of their requirements from the California Power Exchange (CalPX) allowed the IOU's to use their 25,000 MW of generation to serve their load without buying it at spot prices. This, in conjunction with the elimination of the Cal PX's single price auction at bids above $150, terminating the Cal PX's rate schedule entirely as of May 1, 2001, and implementing a 5% bandwidth for scheduling error in the Cal ISO's real time market was intended to provide immediate help.[4] Nevertheless, the crisis in California's electricity power supply system continues.[5] Stage 3 System Emergencies (declared when operating reserves are below 1.5 percent) have become the order of the day and the threat of rolling blackouts is fast becoming routine. While our December 15 Order eliminated the chronic over-reliance on spot markets to meet the electric needs of 32 million Californians, we are now faced with the hard work of building up the infrastructure of the Western grid.

Our November 1 Order on California electricity matters [6] discussed at considerable length many long term measures which need to be implemented with speed and deliberation in order to restore safe, reliable and economical power to the consumers in the West. As a complement to the vital initiative of increasing generation supply, we focus today on where we believe this commission can have the greatest impact—fostering the installation of critical transmission investment.[7] There is little doubt that the supply shortage is real and that we must take bold action. Interconnecting new supply to the bulk power system, upgrading that system to ensure that the new supply can reach load reliably, and eliminating bottlenecks which prevent maximum utilization of existing supply must be accomplished efficiently and expeditiously. With this in mind, we propose herein a package of economic incentives aimed at ensuring the timely completion of upgrades to the Western grid needed to better use existing supply and to accommodate new supply. We also propose that these incentives be

[3] San Diego Gas & Electric Company, *et al.*, 93 FERC ¶ 61,294 (2000), *reh'g pending.*

[4] *See* San Diego Gas & Electric Company, *et al.*, 94 FERC ¶ 61,085 (2001)(Commission found that Cal PX was violating the December 15 Order, and if unremedied, would cost consumers substantial amounts of money and exacerbate the dysfunctions in the market).

[5] Moreover, other Western states, particularly those in the Pacific Northwest, are also projected to have supply problems this summer, depending on rainfall and summer temperatures.

[6] San Diego Gas & Electric Company, *et al.*, 93 FERC ¶ 61,121 (2000), *reh'g pending.*

[7] Of course, we expect transmission providers to make maximum use of existing facilities. We remind transmission providers of their obligation to keep their Available Transmission Capacity (ATC) figures current, including updating Capacity Benefit Margin and Transmission Reliability Margin. Accurate ATC is crucial to facilitating power sale transactions that can relieve stresses on electric systems.

implemented by way of a limited Section 205 filing which would not open up existing rates to review.

First, some grid enhancements may be underway or may not require initial siting and acquisition of rights of way, such as reconfiguring or reconducting existing lines or using existing towers for additional circuits. These types of projects offer the greatest potential for improving grid capacity at present constraints in the shortest period of time. We direct the Cal ISO and the transmission owners in the WSCC to prepare and file, for informational purposes, a list of such projects within 30 days of the date of this order. The filing should clearly describe each project, its impact on grid capability as present constraints, the status of state certification if necessary, its cost and a definite completion date.

In order to provide incentives for the construction of such projects at the earliest date possible, we propose to give transmission owners of projects that increase transmission capacity at present constraints and can be in service by July 1, 2001, a cost-based rate reflecting a 300 basis point premium on equity and a 10-year depreciable life. Those that can be in service by November 1, 2001 will receive a cost-based rate reflecting a 200 basis point premium and a 10-year depreciable life. In order for our incentives to have their desired effect as quickly as possible, transmission owners must be given certainty at the outset. Therefore, we propose that, in implementing the equity premium, would use a uniform basel ne cost of equity for all jurisdictional transmission providers in the WSCC of 11.5%. This figure is in line with the most recent allowance we have approved for a western utility.[8] Accordingly, we proposed that projects which qualify for a 300 basis point premium would be afforded a return on equity of 14.5%.

Second, for system upgrades that involve new rights of way, add significant transfer capability and can be in service by November 1, 2002, we propose to permit transmission owners a cost-based rate reflecting a return of equity of 12.5% (a 100 basis point premium) and a 15-year depreciable life.

Third, we propose that facilities needed to interconnect new supply to the grid which go in service as required to accommodate the in-service date of the new entrant will also be afforded a cost-based rate which reflects a return on equity of 13.5% (a 200 basis point premium) if in service by November 1, 2001 and 12.5% (a 100 basis point premium) if in service by November 1, 2002.

Fourth, to the extent that transmission owners can increase transmission capacity on constrained interfaces without capital intensive expenditures by, for example, installing new technology on existing facilities to better control voltage and power flow or by implementing new operating procedures, we propose to allow them to increase the revenue requirement of their network service rates to ensure that each additional MW of capacity will generate revenues equal to the provider's current firm point-to-point rate.

In an effort to provide the incentives to promote needed infrastructure without economically disadvantaging new supply, we request comment on whether to assign the cost of any interconnection or system upgrade to a particular load or supply or, alternatively, to roll these costs into the average system rate. We recognize that it has been our policy to allow the cost of interconnection and the cost of certain incremental system upgrades to be borne by those loads or supplies on the margin. However, the entire Western Interconnection is in a state of stress and there may soon be no power available at any price. In these circumstances, it is imperative that our pricing policies minimize the cost of entry upon individual entrants.

B. Extension of Waivers for Qualifying Facilities

In an order issued December 8, 2000,[9] the Commission granted certain temporary waivers of operating and efficiency standards for Qualifying Facilities (QFs) to allow increased generation. The temporary waivers were to expire January 1, 2001, but were subsequently extended through April 30, 2001.[10] Because of the capacity shortages in California and other areas in the West now and in the foreseeable future, we find good cause to extend those temporary waivers through December 31, 2001 and apply them to the entire WSCC.[11]

In the December 8 Order, we stated that section 292.205(c) of the Commission's regulations allows the Commission to waive any of its operating and efficiency standards for qualifying cogeneration facilities "upon a showing that the facility will produce significant energy savings."[12] We find that the same factors of serious supply and demand imbalances that supported our waiver in the December 8 Order continue to exist. Therefore, consistent with the goals of PURPA, we find that extending such waiver through December 31, 2001 will provide for improved reliability of electric service by increasing the availability of needed capacity.[13] As in the December 8 Order, we will waive the operating and efficiency requirements to allow qualifying cogenerators to sell their output above the level at which they have historically supplied this output to the purchasing utility. A facility's seasonal average output during the two most recent years of operation will define in historical output. We require that all additional output from the cogenerators be sold exclusively through a negotiated bilateral agreement at market-based rates. This arrangement will benefit both parties and help serve load and reserves in California and the WSCC at a time when generation resources are inadequate.

In addition, consistent with our action in the December 8 Order, we will extend through December 31, 2001, the waiver for the qualifying small power production facilities in the WSCC with respect to their fuel use requirements under section 292.204(b) of the Commission's regulations based on the finding that the situation in California and the interconnected WSCC presents evidence of "emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages".[14] In granting this temporary extension of the waiver, we place the same restriction as detailed above and require that the small power QFs sell their excess production only to load located within the WSCC through negotiated bilateral contracts.

C. Additional Capacity From On-site Generation

Many businesses have installed generators at their business location to meet a portion of their own demands or to serve as a backstop to their purchase of electricity from the local grid. These generators may provide a ready source of generation capacity during periods when power markets are facing a

[8] *See* Southern California Edison Company, Opinion No. 445, 92 FERC ¶ 61,070 (2000).

[9] San Diego Gas & Electric Company, *et al.*, 93 FERC ¶ 61,238 (2000) (*December 8 Order*).

[10] San Diego Gas & Electric Company, *et al.*, 93 FERC ¶ 61,294 (2000)

[11] In a letter to the Chairman of the Commission dated February 8, 2001, Governor Gray Davis of California requested that these waivers be extended until October 15, 2001, and the Secretary of Energy endorsed this request in a letter to the Chairman dated March 5, 2001.

[12] 18 CFR 292.205(c) (2000); *see also* 16 U.S.C. 825h (1994) (general authority to waive regulations as the Commission "may find necessary or appropriate").

[13] 16 U.S.C. 2601.

[14] 18 CFR 292.204(b)(2) (2000).

temporary generation shortage.[15] In order to facilitate the use of existing on-site generators to meet demand, the Commission will adopt a streamlined regulatory procedure to accommodate wholesale sales from such facilities that will serve load within the WSCC. For the period beginning with the issuance date of this order through December 31, 2001, owners of generating facilities located at business locations in the WSCC and used primarily for back-up or self-generation, who would become subject to the Federal Power Act by virtue of sales of power from such facilities,[16] will be permitted to sell power at wholesale from such facilities to non-affiliated entities within the WSCC without prior notice under section 205 of the FPA. Pursuant to FPA section 205(d), we find good cause to waive the prior notice requirements for such sales. Further, the Commission hereby grants waiver of its regulations consistent with our orders on market-based rates,[17] and authorizes market-based rates during the identified time period, subject to the following requirements: The wholesale purchasers of power from such facilities must report to the Commission the names of each such seller from whom power was purchased, the aggregate amount of capacity and/or energy purchased from each seller, and the aggregate compensation paid to each seller.[18] To minimize the number of required reports, the purchaser may make one report for all purchases pursuant to this paragraph, and, if it otherwise files quarterly transactions summaries with the Commission, may include this report as a separate section of its transaction summary for the first calendar quarter of 2002. If the purchaser does not otherwise file quarterly transactions summaries, it should file this report with the Commission by April 30, 2002.[19]

This measure does not abrogate or supersede any existing contracts or obligations, exempt any person from existing environmental, safety, or reliability requirements, authorize the feeding of power into the grid where not otherwise authorized, authorize a retail customer to violate any rules or retail tariff provisions that have been properly imposed on the retail sales made to those customers, or impose new substantive obligations on any person. This measure only streamlines Commission filing requirements for certain actions that are otherwise agreed to among the relevant parties.[20]

With respect to interconnections necessary to accomplish sales described above, to the extent mutually-agreed upon interconnection agreements become jurisdictional through the use of the interconnection for a jurisdictional sale during the specified period, the Commission waives the prior notice requirement for those agreements for the duration of the interim period. Filing of such jurisdictional interconnection agreements may be postponed and made along with the reports of sales pursuant to the procedures discussed above.

D. Purchases of Demand Reduction

It is widely accepted that dropping even a few megawatts off the system at peak periods is more efficient and economical than the incremental cost of generating them. Demand reduction offers a short-term and cost-effective means to provide additional resources during times of scarcity. Therefore, the Commission will allow, effective on the date of this order, retail customers, as permitted by state laws and regulations, and wholesale customers to reduce consumption for the purpose of reselling their load reduction at wholesale. By providing additional load resources when generating resources are scarce, these "negawatts" should help maintain the reliability of the grid. To stimulate the development of this program, the Commission is granting a blanket authorization to allow these sales at market-based rates. We are granting blanket authorization consistent with our discussion concerning sales from generating facilities located at business locations and used primarily for back-up or self-generation. Consistent with our monitoring of generation sales at market-based rates, the Commission will require that similar information on these transactions be reported on a quarterly basis.[21]

These transactions are considered wholesale when they involve the sale for resale of energy that would ordinarily be consumed by the reseller. These transactions can occur in several ways. An aggregater can line up retail load to acquire enough negawatts to resell in a manner similar to what aggregaters do when they sell power to retail load under retail choice programs. In addition, wholesale and retail load with contract demand service could resell their contract demands if the value of power is greater than the value of consumption.

Our December 15 Order on California issues directed, as a longer-term measure, that the Cal ISO pursue establishing an integrated day-ahead market in which all demand and supply bids are addressed in our venue.[22] We seek comments on the desirability of accelerating action on this.

We realize that states play an important role in regulating retail electric service and that allowing retail load to reduce consumption for resale in wholesale markets raises legal, commercial, technical and regulatory issues. But, given the dire supply situation in California and throughout the WSCC, the Commission is

[15] We have in fact approved a tariff under which the owners of such generation could sell electricity to a power marketer. InPower Marketing Corporation, 90 FERC ¶ 61,239 (2000) (*InPower*).

[16] We note that while entities become "public utilities" subject to the Federal Power Act when they commerce the sale of electric energy at wholesale in interstate commerce, they cease to the public utilities when such sales cease (assuming they engage in no other activities that would make them public utilities) without further Commission action. *See* Century Power Corporation, 72 FERC ¶ 61,045 at 61,279 (1995).

[17] *See, e.g., InPower*, 90 FERC at 62,105; Reliant Energy, Inc., *et al.*, 91 FERC ¶ 61,073 at Appendix B (2000). The Commission has generally waived for such sellers the following parts of its regulations in 18 CFR: most of Subparts B and C of Part 35 (documentation), Part 41 (accounting verification), Part 101 (prescribed Uniform System of Accounts), and Part 141 (annual reports). In addition, where requirements are statutory, the Commission has allowed such sellers to make shortened filings to satisfy Part 33 (disposition of facilities) and Part 45 (interlocking positions), and has granted blanket authorizations for issuances of securities (Part 34).

[18] Although we are asking all wholesale purchasers who seek to take advantage of these special procedures to file these reports, it is not our intent to assert jurisdiction over any wholesale purchaser who is not otherwise subject to our jurisdiction, and the submission of such reports will not alter a purchaser's jurisdictional status. Further, to the extent these waivers and authorizations include sales by on-site generators into energy markets administered by an independent system operator (ISO) or power exchange, the ISO or power exchange in that case may file the required reports with the Commission.

[19] These streamlined procedures are similar to those placed into effect last summer. *See* Notice of Interim Procedures to Support Industry Reliability Efforts and Request for Comments, 91 FERC 61,189 (2000). They are offered as an option. Any public utility seller may also follow standard filing requirements if desired.

[20] The waivers and authorizations granted here apply only to sales from on-site generators used primarily for back-up or self generation, and thus would apply up to the amount of capacity and related energy available from such units. The waivers and pre-granted authorizations do not permit an on-site generator that purchases power to resell its purchased power at wholesale. However, assuming such a resale is not contrary to the on-site generator's retail authorizations or purchased power contract, and is not otherwise encompassed within a DSM program, a rate schedule for the sale could be filed with us. In such case, the Commission will be receptive to granting waivers and authorizations consistent with these where there is customer consent.

[21] We note that the ISO instituted a market-based wholesale demand responsiveness program on a four-month trial basis during the summer of 2000. Under this program, the ISO paid participants a monthly "capacity" payment in return for the ISO's ability to curtail these loads. Initial participation in the ISO's trial program reached 180 MW.

[22] *December 15 Order*, 93 FERC at 62,016–17.

compelled to explore every regulatory opportunity to help the market to operate more efficiently and to help ensure short-term reliability throughout the Western Interconnection. Moreover, safeguards may be needed to protect and enhance retail demand-side management (DSM) programs. Our intention is not to undermine existing state DSM programs or other state rules governing retail sales, but to promote complementary wholesale programs. Therefore, we request comments on how helpful this action is and how well it can be accomplished consistent with state jurisdiction over retail sales.

E. Contract Modifications to Promote DSM

Related to the section above, there may be opportunities for public utilities to make other types of demand-side arrangements with their wholesale customers. For example, some wholesale requirements customers may have the ability to enter into arrangements with their own retail customers to reduce load or obtain power from an industrial generator. Or, a partial requirements customer may have access to generating capacity on its own system. We want to ensure that public utilities will be able to work with their customers to negotiate mutually beneficial arrangements on short notice. Since time may be of the essence as these opportunities are discovered and negotiated, we find good cause to waive the FPA's prior notice requirement for any rate schedule amendments that may be required to effectuate these types of arrangements. Thus, to the extent a mutually agreeable DSM alternative changes the terms and conditions of a contract within our jurisdiction, we will grant waiver of the filing of prior notice of the change. This measure will be effective upon the date of issuance of this order. By December 31, 2001, the public utility supplier must amend the filed rate schedule. The filing must consist of a report containing the following information: the FERC rate schedule numbers, the loan reduction negotiated under the DSM arrangement (MW/MWh), total compensation, and the name of each affected wholesale customer.[23]

F. DSM in Cost-Based Rates

While most power sales are currently transacted under market-based rates, there are occasions when utilities continue to operate under cost-based rates. Often, these cost-based rates incorporate formulas that are intended to track the actual out-of-pocket (*i.e.*, incremental) cost that was incurred to generate or purchase the energy. During periods of generation shortage, some utilities may be in a position to engage in DSM transactions with their wholesale and retail requirements customers in order to free up capacity for resale to neighboring utilities. These transactions will not take place unless any DSM expenditures can also be recovered under the rate formula, as are all other out-of-pocket costs. However, most rate schedules define out-of-pocket or incremental cost in terms of expenses incurred to generate power, rather than costs incurred to compensate a preexisting customer to reduce load. A few jurisdictional utilities have amended their cost-based pricing formulas to recognize the fact that DSM costs are a form of out-of-pocket or incremental cost.[24] In order to eliminate any disincentive to rely on DSM as a source of supply during generation shortages, we clarify that DSM costs should be treated consistently with all other types of incremental and out-of-pocket costs. This measure will be effective upon the date of issuance of this order.

G. Interconnections

Section 210(d) of the FPA authorizes the Commission, on its own motion, after it follows certain procedures, to issue an order requiring the same actions an applicant may request with respect to interconnections, namely:

(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability,

(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

We seek comments on whether the exercise of the Commission's authority under this section could help alleviate any existing impediments that may be preventing generating resources from reaching load. If the exercise of this authority may be warranted, we seek comments on whether the Commission could make some of the required findings generically for the WSCC region in order for the Commission to respond quickly if appropriate circumstances arise.

H. Longer-term Regional Solutions

This order focuses primarily on short term regulatory actions that this agency can take to improve energy supply conditions in California and throughout the Western Interconnection. Because of the emergency conditions confronting the West, we are proposing interim rate measures to stimulate much-needed investment in transmission and generation infrastructure. However, in the long term, we believe that decisions regarding investment in new electric and gas infrastructure—including appropriate incentives for such investment—should be approached from a regional perspective that recognizes the interstate nature of the wholesale energy marketplace. In Order No. 2000,[25] the Commission recognized that many of the economic and reliability issues confronting the electric industry could only to be addressed on a regional basis. The current supply and demand electricity crisis in California is no exception. Any long-term solution to address the crisis and, more importantly, to prevent its recurrence, must be developed on a west wide basis, with appropriate input from all of the affected states. Recent events have demonstrated the regional nature of the electricity markets in the West. Problems of inadequate generation supply and poor demand responsiveness are made worse by localized electric transmission and gas pipeline capacity bottlenecks and by fragmentation of Western market rules. A west wide RTO, or a seamless integration of Western RTOs, is the best vehicle for designing and implementing a long-term regional solution.

An RTO of sufficient scope and regional configuration would foster investment in new generation by providing open and fair transmission access. By eliminating transmission rate "pancaking," the RTO could provide sellers and buyers throughout the Western Interconnection with

[23] This paragraph also applies to revisions to contracts to permit a wholesale customer's participation in any utility DSM programs, including those of an ISO or power exchange.

[24] *See, e.g.*, Wisconsin Electric Power Company, Docket No. ER99–2180–000.

[25] Regional Transmission Organizations, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶31,089 (1999), *order on reh'g*, Order No. 2000–A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. ¶31,092 (2000), *petitions for review pending sub nom.*, Public Utility District No. 1 of Snohomish County, *Washington* v. *FERC*, Nos. 00–1174, *et al.* (D.C. Cir.).

additional trading opportunities. These opportunities should help the entry of additional generation supplies. An RTO of sufficient scope and regional configuration would make optimal use of existing transmission through regional congestion management, motivate needed facility expansion, and bring credibility to the sitting process through coordinated regional transmission planning. A west wide RTO could also implement a regional "demand exchange" program to reduce load when supplies are low. Importantly, a west wide RTO could develop uniform market rules that would facilitate regional trade, lower supply costs, and improve reliability.

We take this opportunity to reiterate that the Commission remains committed to the policy course laid out in Order No. 2000. We will continue to work closely with transmission owners, market participants, and affected state utility commissions to encourage the further development of RTOs. We intend to act expeditiously on the compliance filings we have received in order to provide guidance to the industry and certainty to the regional marketplace. Long term market solutions to the supply and demand problems which have confronted California and its neighbors throughout the Western Interconnection will require fully functional RTOs sooner, rather than later.

II. Natural Gas Pipeline Capacity

Natural gas is an important fuel source for electric generators. Recently, there has been a significant escalation in the market price for natural gas. There also are reports of pipeline capacity constraints in moving gas to where it is needed for electric generation. The Commission will do what it can to increase pipeline capacity where appropriate.

The Commission has several types of jurisdiction over new pipeline construction. In general, a natural gas company that wishes to construct and operate new pipeline capacity for the transportation of natural gas in interstate commerce must first obtain a certificate of public convenience and necessity under section 7 of the Natural Gas Act. In addition to its certificate jurisdiction, the Commission has authority, delegated by the Secretary of Energy, over the siting and construction of facilities for the import or export natural gas under Section 3 of the Natural Gas Act as well as authority under Executive Order No. 1045 to issue Presidential Permits for such facilities if they are located at the international border. Authority to construct interstate gas pipeline facilities may also be found in the Commission's regulations implementing Section 311 of the Natural Gas Policy Act of 1978. Under these regulations, facilities to transport gas on behalf of a qualified shipper can be constructed on a self-implementing basis, without prior Commission approval as long as they are constructed in compliance with applicable environmental requirements.

The Commission is continuing to examine its staffing resources and has realigned its environmental expertise in order to ensure that gas infrastructure projects that could serve, directly or indirectly, to increase energy supplies to California and the West are expeditiously processed. Having the hydro and gas environmental staff in the same office has allowed for the assignment of expertise to accommodate gas projects as they are filed. When certain expertise is required to prosecute an application expeditiously, the Commission has the ability to readily bring in, as an example, an individual with knowledge of historic preservation issues. In the last seven months, the Commission has issued certificates for three projects that could benefit the West.[26] Several more certificate applications are pending, and the Commission is committed to moving quickly on these projects too.[27]

Because the traditional process for obtaining a certificate for new construction can be expensive and time consuming for applicants, the Commission has recently adopted a number of methods to expedite the process. For instance, the Commission's regulations offer blanket certificates for eligible facilities. Facilities that are not eligible to be built under a blanket certificate may receive a "preliminary determination" resolving all nonenvironmental issues in the proceeding within 180 days of filing. The Commission also adds to pipeline capacity available for interstate service by issuing certificates of limited jurisdiction when the public interest requires.

In response to the present conditions in California and the West, the Commission has realigned its resources, including its environmental staff, as mentioned above, to allow it to respond as quickly as possible to any applications to construct new capacity. The Commission is actively considering what other actions the Commission may take and is soliciting comments on ways to expedite the approval of pipeline infrastructure needed to serve California and the West.

During this winter, natural gas pipelines, especially in the West, have for the most part been fully utilized. Planned maintenance of pipelines, and concomitant reductions in transmission capacity, usually occur during the spring and summer. The Commission is looking for ways to avoid reduction in the amount of capacity and gas supplies in California and the West during this period. For example, portable compressors may add additional capacity or relieve capacity constraints on pipeline systems this summer.[28] We will be receptive to proposals that achieve these goals. We will also be receptive to rate proposals that provide an incentive to expedite construction to add capacity or relieve capacity constraints on pipeline systems this summer.

In considering what actions it could take to expedite further its ability to respond to the present energy crisis in California and the West consistent with its environmental responsibilities, the Commission is also concerned that any actions that it approves should not come at the expense of reducing the quality of service to existing customers.

Of course, some actions the Commission takes to expedite new capacity for gas to serve California and the West may only be effective to the extent there is available local distribution capacity to deliver gas downstream of the interstate pipeline. The availability of sufficient local take-away capacity, however, is a matter that is within the control of the states rather than of this Commission. We ask that the pipelines coordinate their efforts

[26] This represents almost 119,000 Mcf/d of capacity. *See* Questar Southern Trails Pipeline Company, 92 FERC ¶61,110 (2000); Tuscarora Gas Transmission Company, 93 FERC ¶62,102 (2000); Northwest Pipeline Corporation, 94 FERC ¶61,101 (2001).

[27] There are eight pending pipeline proposals that represent 2.3 Bcf/d of new capacity for the West, including the Rocky Mountain region. They are: North Baja Pipeline Company, LLC, Docket Nos. CP01–22–000 *et al.*; Questar Pipeline Company, Docket No. CP00–68–000; Kern River Gas Transmission Company, Docket No. CP01–31–000; Colorado Interstate Gas Company, Docket No. CP00–452–000; Colorado Interstate Gas Company, Docket No. CP01–45–000; Wyoming Interstate Company, Ltd., Docket No. CP00–471–000; Northwest Pipeline Corp., Docket No. CP01–49–000; and El Paso Natural Gas Company, Docket No. CP01–12–000. In addition, El Paso Natural Gas Company is proposing to acquire and convert to gas use a 785 mile crude oil pipeline extending from Arizona to California, which would replace existing capacity.

[28] In Northwest Pipeline Corporation, Docket No. CP01–62–000 (February 7, 2001) the Commission approved a proposal by Northwest to use existing portable compressors at three compressor stations to relieve capacity constraints on its system, which were forcing imposition of Operational Flow Orders and the purchase by shippers of more expensive gas supplies.

with local distribution companies, public utilities and state officials to ensure that the additional capacity on the interstate pipeline will be able to get to all entities (*e.g.*, LDCs, generators, industrials) that need the gas supply.

Accordingly, the Commission requests the views of interested persons on how it might further exercise its authority over new pipeline construction to alleviate the present crisis. In particular, the Commission solicits the views of interested persons on the following proposals:

(1) Waiving the blanket certificate regulations to increase the dollar limitations for facilities under automatic authorization to $10 million and for prior notice authorizations to $30 million;

(2) Offering blanket certificates for construction or acquisition and operation of portable compressor stations to enhance pipeline capacity to California.

(3) Offering rate incentives to expedite construction of projects that will make additional capacity available this summer on constrained pipeline systems.

The Commissions' current policy of allowing rolled in rates for facilities built under the current blank authorization of $20.6 million or less would continue to apply. However, we request comments on whether blanket authorizations exceeding $20.6 million should also be rolled in.

III. Hydroelectric Power

Hydropower is a critical component of the Western states' generating assets, particularly in the Northwest. While approximately 40 percent of the total capacity in the 11-state WSCC is hydropower based, hydropower accounts for fully 65 percent of the Northwest generation. The Commission regulates 326 projects in the WSCC with a combined total capacity of 24,600 MW. Clearly any action taken to enhance the generation from these projects, consistent with protecting critical environmental resources, can improve the energy picture for the Western states. The current hydrologic conditions, however, are not conducive to maximizing hydropower generation during the summer of 2001.

General practice in the region calls for the coordinated efforts to fill hydropower reservoirs by the beginning of the summer peak electricity season by depending as much as possible on non-hydropower generation resources during the winter off-peak season. In plentiful water years. the Pacific Northwest is able to export hydropower to the southern part of the region during the summer and import fossil-fueled generation during the winter from the south to help meet off-peak loads and allow reservoir storage to refill for the next peak cycle. This coordinated effort has been hampered recently because demands within the Northwest restrict the amount of power available for export, and hydrologic conditions have hampered reservoir replenishment.

Forecasted river flows for spring and summer 2001 indicate below average flows across the Pacific Northwest and California. These predictions are based on past precipitation amounts, existing reservoir and river levels, and forecasted precipitation. Precipitation in the Northwest fell to low levels in November and December 2000, raising concerns about available hydropower. Stream flow conditions likewise fell to low levels in early January. Although the situation has improved recently, particularly in California, some parts of the Pacific Northwest, such as the upper Columbia River region, are still forecasted to have drastically low stream flows.

Where operation of hydroelectric facilities would affect flow-dependent environmental resources, the Commission's licenses have included operating constraints, such as requirements for minimum stream flow, minimum reservoir fluctuation, run-of-river operating mode, ramping rates, and flood control. Such measures serve to protect resources including resident and anadromous fish, water quality, recreation, municipal and industrial water supplies, and agricultural resources. These operating constraints act to reduce the energy production, peaking capacity, and other power benefits of hydropower projects. Granting some relief from these operating constraints would provide power systems with greater flexibility to meet power demands in the West.

Modification of these operational constraints on the currently licensed projects has the potential to increase generation from existing hydroelectric facilities, provide additional power during peak-load periods, and increase the ability of projects to provide ancillary services to the power system. Of the 326 projects licensed by the Commission within the WSCC, 200 have provisions that limit operational flexibility. These 200 projects represent a total capacity of 21,000 megawatts. Greater flexibility in the dispatch of this capacity, consistent with protecting environmental resources, could act at critical times to enhance the reliability of the system.

Modification of these operating constraints, however, would need to be done in a way that balances the generation improvements with protecting the environment. Before making changes to specific project licenses, the Commission would need to work closely with federal and state agencies to ensure that environmental resources, including species listed under the Endangered Species Act, are protected. This is consistent with the President's February 16, 2001 Memorandum to the Secretaries of Defense, Interior, Agriculture, and Commerce and the Administrator of the Environmental Protection Agency, which states:

> I hereby direct all relevant Federal agencies to expedite Federal permit reviews and decision procedures with respect to the siting and operation of power plants in California. All actions taken must be consistent with statute and ensure continued protection of public health and the environment while preserving appropriate opportunities for public participation.

In addition, Commission review of licensed projects indicates that many hydropower projects are potentially capable of more fully using the available water resources to contribute to the electric capacity and energy needs. Existing projects are capable of improvements in these principal areas: (1) Addition of new capacity units, (2) generator upgrading through rewinding, (3) turbine upgrading through runner replacement, and (4) operational improvements through such means as improving coordination of upstream and downstream plants, increasing hydraulic head, and computerization. The Commission encourages all licensees to immediately examine their projects and propose any efficiency modifications that may contribute to the nation's power supply.

In order to expedite review of particular projects with the potential for increased generation, the Commission staff will hold a conference to discuss with agencies, licensees, and others, methods to address environmental protection at projects while allowing for increased generation. We expect to hold a staff conference as soon as possible this spring. Notice of the location and time of the meeting will be published.

Finally, the Commission seeks comments on ways to allow for greater operating flexibility at Commission-licensed hydropower projects while protecting environmental resources. Comments should consider: (1) Methods for agency involvement, (2) ways to handle and expedite Endangered Species Act consultation, (3) criteria for modifying licenses, and (4) identification of processes that could be

implemented to provide efficiency upgrades.

IV. Oil Pipelines

Although oil and oil products are not used significantly for electric generation in the West, there are some generators that rely on such products. The Commission has jurisdiction under the Interstate Commerce Act (ICA) over the rates and charges of pipelines engaged in the transportation of oil and oil products in interstate commerce. The ICA requires that all pipelines charges just and reasonable rates for their service, provide and furnish transport upon reasonable request, and establish reasonable through routes with other carriers. The ICA prohibits pipelines from receiving rebates for service provided or making or giving undue preferences or advantages to shippers.

The Commission has no authority under the ICA to require certificates of public convenience and necessity as a basis for starting operations. That authority rests with local jurisdiction. Since the Commission has no authority over construction of oil pipelines, courts have held that environmental issues are separate from the rate issues over which the Commission has jurisdiction, and the Commission thus has been relieved of any responsibility under the National Environmental Policy Act. The Commission also has no authority over abandonments of service or authority to order extension of lines.

Following enactment of the Energy Policy Act of 1992, the Commission provided an indexing, or a price cap, methodology as a simplified method for oil pipelines to change their rates. The index approach has simplified the filing of rate changes. The Commission in recent years has also concluded that use of the term contracts and differential pricing to allocate risk is permissible under the Interstate Commerce Act to advance a number of innovative pricing proposals. The Commission will explore with oil pipelines other types of innovative proposals that could lead to ensuring an adequate flow of petroleum product into the California market.[29]

Request for Comments/Conference

The Commission seeks the views of industry participants, organizations, and state regulatory authorities on the actions and proposals identified herein, and on what other measures the Commission and others could take to assist in improving the supply/demand balance in California and elsewhere in the West.

We request that any comments be submitted to us by March 30, 2001. Such comments should be concise and focused. Interested persons should submit an original and 14 copies of any comments to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, and should reference Docket No. EL01–47–001.

Finally, the Commission intends to hold a one-day conference with state commissions and other state representatives from Western states to discuss price volatility in the West, as well as other FERC-related issues recently identified by the Governors of Western states.[30] A Commission notice specifying the details of this conference will be issued in the near future.

The Commission Orders

(A) The California ISO and the transmission owners in the WSCC are directed to prepare and file in this docket, within 30 days of the date of this order, a list of grid enhancements that could be made in the short term.

(B) Temporary waivers of certain operating and efficiency standards and fuel use requirements for qualifying facilities are granted to such facilities located in the WSCC through December 31, 2001, as discussed in the body of this order.

(C) For entities in the WSCC meeting the qualifications for on-site or back-up generation, and entities reducing load for resale, as discussed in the body of this order, and who satisfy the reporting requirements discussed herein, the following advance waivers and authorizations are hereby granted for the period beginning the date of this order through December 31, 2001:

(1) The prior notice requirement of section 205 of the Federal Power Act is hereby waived.

(2) Waiver is hereby granted for Parts 35, 41, 101, and 141 of the Commission's regulations.

(3) Authorization is hereby granted to issue securities and assume obligations and liabilities, provided that such issue or assumption is for some lawful object within the corporate purposes of the eligible entities, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(4) The full requirements of Part 45 of the Commission's regulations, except as noted, are hereby waived with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving any eligible entity. Any such person instead shall file a sworn application providing the following information:

(a) full name and business address; and

(b) all jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(D) The prior notice requirement for rate schedule changes to accommodate demand side management, as discussed in the body of this order, is hereby waived, conditioned on the public utility complying with the filing requirements set forth herein.

By the Commission. Commissioner Massey dissented in part with a separate statement attached.

David P. Boergers,

Secretary.

Massey, Commissioner, *dissenting in part:*

Clearly the Commission should do whatever we can to help alleviate the continuing market crisis in the western states. This order is a very limited attempt to do so, but it makes errors of omission and commission from which I must dissent.

Let me first focus on the error of omission, or as I see it, "ignoring the elephant in the living room." Today's order focuses on quick fixes to help narrow somewhat the gap between supply and demand in the west. I do not believe any of my colleagues seriously believes these measures will close that gap substantially. The California ISO projects deficiencies of up to 6,800 Mws for this summer. And I think that it is generally agreed that demand in California and elsewhere in the west is not responsive enough to prices. The Commission has previously found that the dysfunctional market in California is not producing just and reasonable prices. Addressing these problems is a long term endeavor. Unfortunately, market participants are forced to purchase in today's markets, and at prices that are arguably unlawful.

Last summer in our NSTAR and New York ISO orders, we found that these conditions—supply shortages and a lack of demand responsiveness—prevented these northeastern electricity markets from operating as typical competitive markets and that price mitigation was needed.[1] Yet today's order fails to address price relief in the short term for

[29] In addition, oil pipelines rely upon electricity for pumping, and to the extent pumping is affected by electric curtailments, oil products may not get delivered to generators that rely on such products. We request any comments as to whether this is a serious concern.

[30] *See* Western Governors Association, "Suggested Action Plan to Meet the Western Electricity Crisis and Help Build the Foundation for a National Energy Policy" (March 2001). A copy of this document has been filed in this docket.

[1] 92 FERC ¶ 61,065 (2000), and 92 FERC ¶ 61,073 (2000).

consumers in the western part of our nation where the same conditions exist and are much worse.

I am very concerned with the economic effects the current market meltdown is having. An article in yesterday's Wall Street Journal reported that the current western energy crisis could cut disposable household income by $1.7 billion and cost 43,000 jobs over the next three years in Washington state alone. Some fear that it could tip the region into a recession. Moreover, the current volatile and high prices, which will be worse by magnitudes this coming summer, are devastating consumer and investor confidence in a market based approach to electricity regulation. Over the past three months, I have attended and spoken at two separate conferences sponsored by the Western Governors Association dealing with these issues. Scores of market participants and western public officials spoke passionately and eloquently about the nature of the problems they face. Certainly the issue of supply is a big problem that must be addressed, but so is the issue of price. Without protection, there is huge concern about what the summer will bring in terms of high prices and volatility. If the west experiences another summer like the last, I fear for the future viability of this agency's policy favoring wholesale competition. The political viability of a market based approach for electricity may suffer irreparably.

Thus, this order should have established an investigation under section 206 of the Federal Power Act into the appropriateness of effective price mitigation until the longer term solutions are in place and the markets operate normally. This investigation would assess, through comments, whether conditions in the western interconnection are preventing competitive market operation, how long those conditions are expected to last, and what the Commission can do to provide immediate price mitigation to ensure that prices are just and reasonable. We would also inquire about how any mitigation measures should be applied and how long they should last. A specific sunset provision is important to maintain investor confidence that price mitigation is temporary and imposed only to deal with a poorly functioning market and to provide an incentive to ensure that the market problems are addressed expeditiously.

And finally, a section 206 investigation into wholesale electricity prices in the western interconnection would set a refund effective date 60 days hence so that the Commission can protect consumers if our investigation finds that prices are not just and reasonable.

I attach the utmost importance to initiating such an investigation. I dissent from this order for its failure to do so.

Having said that, I support many of the measures that today's order puts in place immediately, such as: extending and broadening temporary waivers of QF standards; facilitating market based rate authority for sales from back up and self generation at business locations; authorizing customers to "sell" load reduction at wholesale and at market based rates; facilitating wholesale contract changes to allow demand side management and facilitating demand side cost recovery in wholesale contracts. Many of these same actions were authorized by the Commission last year in our May 2000 reliability initiative. They were good ideas last year and they are good ideas now.

Beyond those measures, I have strong reservations about the proposed premium on equity returns for certain transmission and interconnection facilities. Some of these proposals could result in a 14.5% return on equity. There is no particular rationale for that level of return other than to simply throw money at the problem. Moreover, the Commission was very careful just a little over a year ago in Order No. 2000 to limit such incentive rate treatments to RTO participation. The premiums offered here are done so outside of the RTO context. I therefore must dissent from this order's proposal on equity premiums.

I also have concerns with the hydro provisions of this order. The Commission urges all WSCC hydropower licenses to examine their projects for the purpose of reporting possible efficiency modifications that could result in increased generation and to identify any environmental impacts that could occur if the efficiency changes are made. The primary focus of my concern relates to the notion that the Commission might urge licensees to unilaterally modify discretionary operations to increase electricity generation, without taking adequate responsibility for any environmental downside associated with such a decision. Healthy fisheries in California and the west are not a frill, but an integral part of the region's economy.

There is already great concern about these facilities. For example:

- The Columbia River and most of its tributaries are draining an abnormal amount of rain, providing concern that there will not be nearly enough water to allow juvenile salmon to reach the ocean. Reservoirs across western Washington, most notably on the Cowlitz River, are down to some of the lowest levels since dams were constructed in the 1960's.
- The 717 foot high Dworshak Dam which contains one of the most critical storage reservoir in the West, is a half-million acre feet short of water. The 54 mile reservoir is nearly 50 feet lower than normal. This facility is critical to the survival of the endangered chinook salmon. So far, almost 200,000 acre feet of water have been diverted from Dworshak.

For the above reasons, I will dissent in part to today's order.

William L. Massey,

Commissioner.

[FR Doc. 01–6955 Filed 3–20–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6954–5]

Effluent Guidelines Plan; Announcement of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of meeting.

SUMMARY: Under section 304(m) of the Clean Water Act (CWA), EPA is required to publish a plan every two years which, in part, identifies industry categories for new or revised effluent guidelines. EPA is convening a group of stakeholders and technical experts to participate in a two-day workshop in Baltimore, MD. The purpose of this workshop is to evaluate processes that may be effective in providing a meaningful, transparent assessment of whether revision of existing effluent guidelines is appropriate or whether there is a new category of sources that should be regulated by new effluent guidelines. This meeting is a working session of invited participants selected to represent a broad range of viewpoints and expertise. The meeting is open to the public. The public may make oral statements on April 3, 2001 from 3:45–4:45 PM.

DATES: EPA is conducting the two-day workshop on April 2, 2001 from 8:30 AM–5:30 PM and April 3, 2001 from 8:15 AM to 5:30 PM.

ADDRESSES: The workshop will be held at The Admiral Fell Inn located at 888 South Broadway, Market Square at Thames Street, Baltimore, MD 21231, (800–292–4667).

FOR FURTHER INFORMATION CONTACT: Ms. Jan Matuszko at (202) 260–9126 or Ms.

Yu-Ting Liu at (202) 260–3596 or by E-mail: matuszko.jan@epa.gov or liu.yu-ting@epa.gov.

SUPPLEMENTARY INFORMATION: Additional information on effluent guidelines and the current effluent guidelines plan is available on the Internet at *http://www.epa.gov/ost/guide.*

Dated: March 9, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–7026 Filed 3–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30508; FRL–6770–6]

Pesticide Products; Plant-Pesticides Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30508, must be received on or before May 7, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30508 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader listed in the table below:

Regulatory Action Leader	Telephone number/e-mail address	Mailing address	File symbol
Mike Mendelsohn	(703) 308–8715; mendelsohn.mike@epa.gov	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460	524-LET
Willie Nelson	(703) 308–8682; nelson.willie@epa.gov	Do.	524-LEE

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30508. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30508 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway,

Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30508. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File symbol: 524-LET. Applicant: Monsanto Company, 700 Chesterfield Parkway N., St. Louis, MO 63198. Product name: Plant-Incorporated Protectant *Bacillus thuringiensis* Cry2Ab Insect Control Protein as Produced in Corn. Type of product: Plant pesticide. Active ingredient: *Bacillus thuringiensis* Cry2Ab protein and the genetic material necessary for its production (Vector ZMBK28) in corn. Proposed classification/ Use: None. For full commercial registration on corn.

2. File Symbol: 524-LEE. Applicant: Monsanto Company, 700 Chesterfield Parkway N., St. Louis, MO 63198. Product name: Bollgard II Cotton. Type of product: Plant pesticide. Active ingredient: *Bacillus thuringiensis* Cry2Ab protein and the genetic material necessary for its production (Vector GHBK11L) in cotton. Monsanto transformed a Bollgard cotton variety with vector GHBK11L using particle bombardment to add the Cry2Ab gene. Proposed classification/Use: None. For full commercial registration on cotton.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: February 16, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–6761 Filed 3–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00692; FRL–6759–9]

Guidance for Pesticide Registrants on Insect Repellents: Labeling Restrictions for Use on Infants and Children and Restrictions on Food Fragrances and Colors; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a Pesticide Registration (PR) Notice and a Response to Public Comments document. The PR Notice outlines EPA's policy on insect repellents bearing claims for use specifically on infants and children and provides guidance to EPA personnel and decision-makers, members of the regulated community, and to the public. EPA believes that the label changes and policy clarification set forth in the PR Notice will reduce risks associated with the improper use of insect repellents and will improve consumer understanding. Additionally, the PR Notice states EPA's current position on insect repellents formulated to contain colors and fragrances predominantly associated with food (e.g., grape, orange, or watermelon).

FOR FURTHER INFORMATION CONTACT: Robyn Rose, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office telephone number: (703) 308–9581; fax: (703) 308–7026; e-mail: rose.robyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who manufacture and/or register products that repel insects from humans, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document and the PR Notice from the Office of

Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," " Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax-on-demand.* You may request a faxed copy of the Pesticide Registration (PR) Notice titled "Insect Repellents: Labeling Restrictions for Use on Infants and Children and Restrictions on Food Fragrances and Colors," by using a faxphone to call (202) 401–0527 and selecting item 6134. Select 6135 to request a copy of the Response to Public Comments document. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00692. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

A. What Guidance Does this PR Notice Provide?

The PR Notice referred to in this Notice states EPA's current position on insect repellent claims targeted for use specifically on infants and children. Such products have sometimes borne statements such as, "Outdoor Protection for Kids" or ". . .for children" or ". . .for kids" or graphics featuring pictures of children. EPA believes that all claims as well as pictures of food or items predominantly associated with infants and children (e.g., toys) may be misleading and the Agency does not expect to approve such claims in future registration applications. Additionally, the PR Notice states EPA's current position on insect repellents formulated to contain colors and fragrances predominantly associated with food (e.g., grape, orange, or watermelon). The PR Notice outlines the procedure and time frame for registrants of currently registered insect repellents with claims targeted for use specifically on infants and children or containing food colors or fragrances to make appropriate changes to product labels. EPA believes that the label changes and policy clarification set forth in the PR Notice will reduce risks associated with the use of currently registered products and will improve consumer understanding.

B. PR Notices are Guidance Documents

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 16, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 01–6762 Filed 3–20–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 21, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1-A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0173.

Title: Section 73.1207 Rebroadcasts.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 5,562.

Estimated Hours Per Response: 0.5 hours.

Frequency of Response: Recordkeeping.

Cost to Respondents: $0.

Estimated Total Annual Burden: 5,056 hours.

Needs and Uses: Section 73.1207 requires that licensees of broadcast stations obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. This written consent assures the Commission that prior authorization for retransmission of a program was obtained. Section 73.1207 also requires

stations who use the NBS time signals to notify the NBS semiannually of use of time signals.

OMB Approval Number: 3060–0110.

Title: Application for Renewal of License for AM, FM, TV Translator or LPTV.

Form Number: FCC 303–S.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 5,492.

Estimated hours per response: 2.67–11.25 hours (0.67–11.25 hours respondent; 0–10 hours for an attorney).

Frequency of Response: Reporting, once every 8 years.

Estimated total annual burden: 5,288.

Estimated total annual cost burden: $1,560,851.

Needs and Uses: FCC Form 303–S is used in applying for renewal of license for a commercial or noncommercial AM, FM or TV broadcast station and FM translator, TV translator or Low Power TV broadcast stations. It can also be used in seeking the joint renewal of licenses for an FM or TV translator station and its co-owned primary FM, TV or LPTV station.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice of the filing of the renewal application. For AM, FM, TV stations, these announcements are made on-the-air. For FM/TV Translators and AM/FM/TV stations that are silent, the local public notice is accomplished through publication in a newspaper of general circulation in the community or area being served.

The data is used by FCC staff to assure that the necessary reports connected with the renewal application have been filed and that licensee continues to meet basic statutory requirements to remain a licensee of a broadcast station. The local public notice informs the public that the station has filed for license renewal.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6944 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 21, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0475.

Title: 90.713 Entry Criteria.

Form No.: N/A.

Type of Review: Extension.

Respondents: Individuals or households, Business or other for-profit and State, Local or Tribal Government.

Number of Respondents: 33.

Estimated Time Per Response: 25.5 hours (avg.).

Frequency of Response: On occasion.

Total Annual Burden: 842 hours.

Total Annual Cost: $0.

Needs and Uses: Section 90.713 of the Commission's rules requires applicants for nationwide systems in the 220–222 MHz bands to certify that they have an actual presence necessitating internal communications capacity in 70 or more markets identified in the application. The data will be used to determine the eligibility of the applicant to hold a radio station authorization. Commission licensing personnel will use the data for rulemaking proceedings and field engineers will use the data for enforcement purposes.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6945 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 13, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0056.

Expiration Date: 09/30/2001.

Title: Part 68—Connection of Terminal Equipment to the Telephone Network.

Form No.: FCC Form 730.

Respondents: Business or other for-profit; Individuals or household.

Estimated Annual Burden: 54,369 respondents; .5 minutes—20 hours per respondent; 2.2 hours per response (avg.); 120,459 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $2,705,000.

Frequency of Response: On occasion; Recordkeeping; Third Party Disclosure.

Description: In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to review its rules every even-numbered year and repeal or modify those found to be no longer in the public interest. Consistent with the directive of Congress, in the year 2000, the Commission undertook its second comprehensive biennial review of the Commission's rules to eliminate regulations that are no longer necessary because the public interest can be better

served through reliance on market forces. In a Report and Order issued in CC Docket No. 99–216, Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, released December 21, 2000 (Order), the Commission completely eliminate significant portions of Part 68 of our rules governing the connection of customer premises equipment (terminal equipment) to the public switched telephone network and privatize the standards development and terminal equipment approval processes. Specifically, in the Commission transferred responsibility for developing technical criteria to Standards Development Organizations (SDOs) that are accredited by the American National Standards Institute (ANSI), and the responsibility for compiling and publishing all standards ultimately adopted as technical criteria for terminal equipment to the Administrative Council for Terminal Attachments (Administrative Council). The Commission maintains its rules' broad principles, including a proscription against causing any of four harms to the public switched telephone network by the direct connection of terminal equipment. Once the Administrative Council publishes the technical criteria, the Commission shall presume the criteria to be valid for the prevention of the harms to the public switched telephone network by terminal equipment interconnection, subject to *de novo* review by petition to this Commission. Conformance with the technical criteria will be considered a demonstration of compliance with the Commission's rules prohibiting terminal equipment from harming the public switched telephone network. Terminal equipment manufacturers either will submit their products to telecommunications certification bodies (TCBs) for certification of conformity with the technical criteria (instead of submitting them for registration with the Commission), or they will use the Commission's Supplier's Declaration of Conformity (SDoC) process to show conformity with the technical criteria. This process will be more efficient and responsive to the needs of all segments of the industry, and remove the Commission from role where governmental involvement is no longer necessary or in the public interest. Following is a summary of the collections contained in the Order and 47 CFR part 68. See the Order and 47 CFR part 68 for additional information.

a. FCC Form 730 and associated requirements—Currently, under rule 68.102 manufacturers must register terminal equipment. FCC Form 730 is used to obtain registration of telephone equipment pursuant to part 68 of the Commission's rules. In addition to filing the form, applicants are required to submit exhibits and other informational showings specified by part 68.

The Commission will cease accepting applications for registration of part 68 equipment and transfer responsibility for establishing and maintaining the database of approved equipment to the Administrative Council when the Council publishes the technical criteria as required by the Order. While continued use of the FCC Form 730 is permitted, the Commission only requires that the database contain sufficient information for providers of telecommunications, this Commission and the U.S. Customs Service to carry out their functions. (No. of respondents: 2400; hours per response: 24 hours; total annual burden: 57,600 hours).

b. Section 68.105, Minimum Point of Entry and Demarcation Point—Pursuant to Section 68.105, at the time of installation, providers of wireline telecommunications must fully inform the premise owner of its options and rights regarding the placement of the demarcation point or points. The provider of wireline telecommunications services must make available information on the location of the demarcation point within ten business days of a request from the premises owners. (No. of respondents: 50,000; hours per response: .05 hours; total annual burden: 2500 hours).

c. Section 68.106—Notification to Provider of Wireline Telecommunications—Section 68.106 requires customers connecting terminal equipment or protective circuitry to the public switched telephone network shall, upon request of the provider of wireline telecommunications inform the provider of wireline telecommunications of the particular line(s) to which such connection is made, and any other information required to be placed on that terminal equipment pursuant to Section 68.354. Customers connecting systems assembled of combinations of individually-approved terminal equipment and protective circuitry shall provide, upon the request of the provider of wireline telecommunications, provide the information delineated in Section 68.106(b)(i)–(iv). Customers who intend to connect premises wiring other than fully protected premises wiring to the public switched telephone network shall, in addition to the requirements in Section 68.106(b), give notice to the provider of wireline telecommunications in accordance with Section 68.215(e). (No. of respondents: 50,000; hours per response: .05 hours; total annual burden: 2500 hours).

d. Section 68.108, Notification of Incidence of Harm—Section 68.108 requires that providers of wireline telecommunications notify the customer that temporary discontinuance of service may be required should terminal equipment, inside wiring, plugs and jacks, or protective circuitry cause harm to the public switched telephone network or should the provider reasonably determine that such harm is imminent. (No. of respondents: 7500; hours per response: 0.5 hours; total annual burden: 750 hours).

e. Section 68.110, Disclosure of Technical Information—Section 68.110(a) requires provider of wireline telecommunications to provide, upon request, technical information concerning interface parameters not specified by the technical criteria published by the Administrative Council for Terminal Attachments that are needed to permit terminal equipment to operate in a manner compatible with the communications facilities of a provider of wireline telecommunications. Section 68.110(b) requires that a provider of wireline telecommunications give the customer adequate notice in writing if changes can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance. (No. of respondents: 40; hours per response: .50 hours; total annual burden: 20 hours). Section 68.110(c) requires provider of wireline telecommunications to provide building owners with all available information regarding carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records. (No. of respondents: 200, with 1200 responses; hours per response: 1 hours; total annual burden: 1200 hours).

f. Section 68.215, Notarized Affidavit—Section 68.215 requires that a notarized affidavit and one copy thereof be prepared by the installation supervisor in advance of each operation associated with the installation, connection, reconfiguration and removal of other than fully-protected premises wiring (except when accomplished functionally using a cross-connect panel), except when involved with removal of the entire premises communications systems

using such wiring. The affidavit and its copy must contain the information specified in 47 CFR 68.215(e)(1)–(9). (No. of respondents: 7500; hours per response: .50 hours; total annual burden: 3750 hours).

g. Section 68.218, Compliance Warrants—Section 68.218 requires that the responsible party warrants that each unit of equipment marketed under such authorization will comply with all applicable rules and regulations of Part 68 and with the applicable technical criteria of the Administrative Council for Terminal Attachments. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours).

h. Section 68.324, Supplier's Declaration of Conformity—Section 68.324(a)(1)–(6) lists the information that each responsible party must include in the Supplier's Declaration of Conformity.(No. of respondents: 974, with 2350 responses; hour per response: 20 hours; total annual burden: 47,000 hours).

i. Section 68.326, Retention of Records—Section 68.326 requires that responsible party for a Supplier's Declaration of Conformity maintains records containing the information specified in Section 68.326(a)(1)–(4) for at least ten years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding, if the responsible party is officially notified prior to the expiration of such ten year period that an investigation or any other administrative proceeding involving its equipment has been instituted, whichever is later. See 47 CFR 68.326. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours).

j. Section 68.346, Description of Testing Facilities—Section 68.346 requires that each responsible party for equipment that is subject to a Supplier's Declaration of Conformity compiles and retains a description of the measurement facilities employed for testing the equipment. The description shall contain the information required by the Administrative Council for Terminal Attachments. See 47 CFR section 68.346. (No. of respondents: 974, with 2350 responses; hours per response: .25 hours; total annual burden: 587 hours).

k. Section 68.354, Numbering and Labeling Requirements—Section 68.354 requires that terminal equipment and protective circuitry that is subject to a Supplier's Declaration of Conformity or that is certified by a Telecommunications Certification Body have labels in a place and manner required by the Administrative Council for Terminal Attachments. Terminal equipment labels shall include an identification numbering system in a manner required by the Administrative Council for Terminal Attachments. FCC numbering and labeling requirements existing prior to the effective date of these rules shall remain unchanged until the Administrative Council for Terminal Attachments publishes its numbering and labeling requirements. See 47 CFR 68.354. See also 47 CFR 68.612. (No. of respondents: 974, with 2350 responses: .25 hours; total annual burden: 587 hours).

l. Sections 68.400–68.417, Complaints. A complaint must be in writing and contain the information specified in Section 68.400(a)–(d). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 20 hours).

m. Section 68.418, Designation of Agents for Service—Pursuant to Section 68.418, every responsible party of equipment approved pursuant to Part 68 must designate and identify one or more agents upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. See 47 CFR Section 68.418. (No. of respondents: 974, with 2350 responses: hours per response: .1 hour; total annual burden: 235 hours).

n. Section 68.419, Answers to Informal complaints—Section 68.419 requires that any responsible party to whom the Commission or the Consumer Information Bureau directs an informal complaint file an answer within the time specified by the Commission or the Consumer Information Bureau, as required by in Section 68.419(a)–(e). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 100 hours).

o. Section 68.604, Requirements for submitting technical criteria—Any SDO that submits standards to the Administrative Council for Terminal Attachments for publication as technical criteria shall certify to the Administrative Council for Terminal Attachments the information found in Section 68.604(c)(1)–(3). See 47 CFR Section 68.604. (No. of respondents: 5, with 10 responses; hours per burden: 5 hours; total annual burden: 5 hours).

p. Section 68.610, Database of Terminal Equipment—Section 68.610 requires that the Administrative Council for Terminal Attachments operates and maintains a database of all approved terminal equipment. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours). To ensure that consumers, providers of telecommunications, the Administrative Council, TCBs, and the Commission are able to trace products to the party responsible for placing terminal equipment on the market, it is essential to require manufacturers and suppliers to provide the information specified in the Order and 47 CFR Part 68.

Authority: 47 U.S.C. §§ 151–154; 47 U.S.C. § 201–205; 47 U.S.C. § 303. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6972 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 20, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License.

Form No.: FCC 314.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 1,591.

Estimated Time Per Response: 12–48 hours (the burden hour time and contracting time varies depending on the type of application filed).

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 2,546 hours.

Total Annual Cost: $12,237,878.

Needs and Uses: FCC Form 314 and applicable exhibits/explanations are required to be filed when applying for consent for assignment of an AM, FM or TV broadcast station construction permit or license, along with applicable exhibits and explanations. In addition, the applicant must notify the Commission when an approved assignment of a broadcast station construction permit or license has been consummated.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for assignment of license/permit. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. Additionally, an applicant for assignment of license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

On April 4, 2000, the Commission adopted a Report and Order in MM Docket No. 95–31 in the Matter of Reexamination of the Comparative Standards for Noncommercial Educational Applicants. This Report and Order adopted new procedures to select among competing applicants for noncommercial educational (NCE) broadcast channels. The new procedures will use points to compare objective characteristics whenever there are competing applications for full-service radio or television channels reserved for NCE use. The new procedure established a four-year holding period of on-air operations for licenses approved as a result of evaluation in a point system. The FCC 314 has been revised to reflect the new policy and to require stations authorized under the point system who have not operated for a four-year period to submit with their applications an exhibit demonstrating compliance with Section 73.7005.

The data is used by the FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

OMB Control No.: 3060–0032.

Title: Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

Form No.: FCC 315.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 1,591.

Estimated Time Per Response: 12–48 hours (the burden hour time and contracting time varies depending on the type of application filed).

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 2,546 hours.

Total Annual Cost: $12,237,878.

Needs and Uses: FCC Form 315 and applicable exhibits/explanations are required to be filed when applying for transfer of control of a corporation holding an AM, FM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for transfer of control of license/permit. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. Additionally, an applicant for transfer of control of license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application. On April 4, 2000, the Commission adopted a Report and Order in MM Docket No. 95–31 in the Matter of Reexamination of the Comparative Standards for Noncommercial Educational Applicants. This Report and Order adopted new procedures to select among competing applicants for noncommercial educational (NCE) broadcast channels. The new procedures will use points to compare objective characteristics whenever there are competing applications for full-service radio or television channels reserved for NCE use. The new procedure established a four-year holding period of on-air operations for licenses approved as a result of evaluation in a point system. The FCC 315 has been revised to reflect the new policy and to require stations authorized under the point system who have not operated for a four-year period to submit with their applications an exhibit demonstrating compliance with Section 73.7005.

The data is used by the FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6946 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

March 13, 2001.

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DATES: Written comments should be submitted on or before April 20, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

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FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0957.

Title: Wireless Enhanced 911 Service, Fourth Memorandum Opinion and Order.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 2,500.

Estimated Time Per Response: 3 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 7,500 hours.

Total Annual Cost: N/A.

Needs and Uses: The Fourth Memorandum Opinion and Order (MO&O) responds to petitions for reconsideration of certain aspects of the Third Report and Order (R&O) in this proceeding concerning establishment of a nationwide wireless enhanced 911 emergency communications service. This decision revised, among other things, the deployment schedule that must be followed by wireless carriers that choose to implement E911 service using a handset-based technology. The public burden involves guidelines for filing successful requests for waiver of the E911 Phase II rules. The Commission will use the information submitted by petitioners to ensure that carriers comply with Phase II requirements in an orderly, timely, comprehensive fashion with no unnecessary delay.

OMB Control No.: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit

Number of Respondents: 1,700.

Estimated Time Per Response: .50–44 hours.

Frequency of Response: On occasion reporting requirements, and third party disclosure requirement.

Total Annual Burden: 162,800 hours.

Total Annual Cost: N/A.

Needs and Uses: The requirements implemented section 706 of the Communications Act of 1934, as amended, to promote deployment of advanced services without significantly degrading the performance of other services. All the requirements will be used by the Commission and CLECs to facilitate the deployment of advanced data services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6947 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2472]

Petitions for Reconsideration of Action in Rulemaking Proceeding

March 15, 2001.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by April 15, 2001. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

SUBJECT: 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations (CC Docket No. 99–216).

Number of Petitions Filed: 5.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–6943 Filed 3–20–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 26, 2001, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors

Memorandum and resolution re: Statement of Policy Regarding Binding Arbitration

Memorandum and resolution re: Part 369—Proposal to Amend Rule Concerning Prohibition Against Use of Interstate Branches Primarily for Deposit Production

DISCUSSION AGENDA:

Memorandum and resolution re: Recission of Deposit Broker Notification, Recordkeeping and Reporting Requirements—Section 337.6(e) of the FDIC's Regulations

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language

interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 19, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–7171 Filed 3–19–01; 3:56 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, March 22, 2001. Meeting Open to the Public. This meeting has been canceled.

DATE AND TIME: Tuesday, March 27, 2001 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, March 29, 2001 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Notice of Proposed Rulemaking on Independent Expenditure Reporting.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–7164 Filed 3–19–01; 2:54 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.: 011752.

Title: Atlantsskip ehf/Samskip hf Space Charter Agreement.

Parties: Atlantsskip ehf. Samskip hf.

Synopsis: The proposed agreement authorizes Atlantsskip to provide Samskip with space on its vessels for sailings between Iceland and certain U.S. Atlantic coast ports. Samskip will provide Atlantsskip with certain inland services in Norfolk, Virginia.

Agreement No.: 011753.

Title: HUAL/HMM Space Charter Agreement.

Parties: HUAL A/S. Hyundai Merchant Marine Co., Ltd.

Synopsis: The proposed agreement authorizes the parties to charter space for rolling stock to each other on as "as-needed/as available" basis in the trade from the Republic of Korea to the U.S. Atlantic, Gulf and Pacific coasts.

Agreement No.: 011754.

Title: King Ocean/SOL Y Mar Slot Exchange Agreement.

Parties: King Ocean Central America S.A. Sol Y Mar.

Synopsis: The proposed agreement establishes a space charter and sailing agreement in the trade between the U.S. North Atlantic and Guatemala and Honduras. The parties have requested expedited review.

Dated: March 16, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–7031 Filed 3–20–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following ocean transportation intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding dates shown below:

License Number: 4601.

Name: Advanced Cargo Services Corp.

Address: 333 N. Marine Ave., Wilmington, CA 90744.

Date Revoked: February 15, 2001.

Reason: Failed to maintain a valid bond.

License Number: 3262N.

Name: GES Logistics, Inc.

Address: 235 E. Broadway, Suite 406, Long Beach, CA 90802.

Date Revoked: February 21, 2001.

Reason: Failed to maintain a valid bond.

License Number: 3550F.

Name: Seair Export Import Services, Inc.

Address: 10480 NW South River Drive, Medley, FL 33178.

Date Revoked: February 9, 2001.

Reason: Failed to maintain a valid bond.

License Number: 4541F.

Name: Southeast Logistics International, Inc.

Address: 122 Agape Street, Williamson, GA 30292.

Date Revoked: February 9, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16476NF.

Name: Transportation Logistics Int'l., Inc.

Address: 811 Route 33, Freehold, NJ 07728

Date Revoked: February 22, 2001.

Reason: Failed to maintain valid bonds.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–7034 Filed 3–20–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
2849F	Amex International, Inc., 1615 L Street, NW., Suite 340, Washington, DC 20036.	March 5, 2000.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing
[FR Doc. 01–7032 Filed 3–20–01; 8:45 am]
BILLING CODE 6730–01–P

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 April 13, 2001.

Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Peotone Bancorp, Inc., Peotone, Illinois; to acquire 20.62 percent of the voting shares of SouthwestUSA Corporation, Las Vegas, Nevada, and thereby indirectly acquire SouthwestUSA Bank, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, March 15, 2001.

Robert deV. Frierson
Associate Secretary of the Board.
[FR Doc. 01–6942 Filed 3–20–01; 8:45 am]
BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

Agency Holding the Meeting: Board of Governors of the Federal Reserve System.

Time and Date: 10:00 a.m., Monday, March 26, 2001.

Place: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

Status: Closed.

Matters to be Considered:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

Contact Person for More Information: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 16, 2001.

Robert deV. Frierson,
Associate Secretary of the Board.
[FR Doc. 01–7085 Filed 3–16–01; 4:34 pm]
BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health Announcement of Public Meeting to Discuss Potential Standards or Guidelines for Respiratory Protective Devices Used to Protect Emergency Response Workers Against Chemical, Biological, and Radiological Agents

AGENCY: Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (DHHS).

ACTION: Notice of a public stakeholder meeting to discuss the Agencies' current understanding of threats in responding to chemical, biological, and radiological incidents, user needs, and potential standards or guidelines for respiratory protective devices suitable for use by first responders.

DATES: 9 a.m.–5 p.m. April 17, 2001; 9 a.m.–5 p.m. April 18, 2001.

Location: Building E4810, U.S. Army Soldier and Biological Chemical Command, Edgewood Chemical Biological Center, Edgewood Area, Aberdeen Proving Ground, MD 21010–5424.

This meeting is hosted by NIOSH, the National Institute for Standards and Technology (NIST), and the U.S. Army Soldier and Biological Chemical Command (SBCCOM).

The meeting will be open to the public, limited only by the space available.

The meeting room accommodates approximately 220 people.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Officer, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/533–8450, fax 513/533–8230, or e-mailed to *NIOCINDOCKET@CDC.GOV* on or before April 6, 2001. All requests to present should contain the name, address, and telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral

presentations should be limited to 15 minutes.

The purpose of the meeting is to obtain comments from individuals regarding potential chemical and biological respiratory protection standards and guidelines that NIOSH is developing in collaboration with SBCCOM and NIST.

After reviewing the requests for presentations, NIOSH will notify each presenter by mail or telephone of the approximate time that his or her oral presentation is scheduled to begin. If a participant is not present when his or her presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make presentations may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

SUMMARY: The Agencies will provide information to attendees concerning the progress of their collaborative efforts and their current understanding of chemical, biological, and radiological respiratory protection issues including threats or hazards, and the developmental status of chemical and biological standards and guidelines. Participants will be given an opportunity to ask questions of Agencies' representatives, and to present individual comments that they wish to have considered.

Background

Due to the recognition that terrorism is a national domestic security issue, municipal, state, and national guard responder groups, particularly those in locations considered potential targets, have been developing response and consequence management plans. The federal Interagency Board for Equipment Standardization and Interoperability (IAB) has worked to identify personal protective equipment that is already available on the market for responders' use. The IAB has identified the development of standards or guidelines for respiratory protection equipment as a top priority. NIOSH, NIST, National Fire Protection Association and the Occupational Safety and Health Administration have entered into a Memorandum of Understanding defining each agency or organization's role in developing, establishing and enforcing standards or guidelines for responders' respiratory protective devices. NIST has initiated Interagency Agreements with NIOSH and SBCCOM to aid in the development of appropriate respiratory protection standards or guidelines. NIOSH has the lead in developing standards or guidelines to test, evaluate and approve respirators.

Specific Discussion and Comment Topics

NIOSH, SBCCOM, and NIST are holding this meeting to present their progress in assessing respiratory protection needs of responders to chemical, biological, and radiological incidents. The Agencies will present their methods or models for developing hazard and exposure estimates, and their status in evaluating test methods and performance standards that may be applicable as future chemical and biological respirator standards or guidelines. Participants are invited to provide their individual comments on these topics and to identify additional information that will help in developing respiratory standards and guidelines.

The Agencies have evaluated threat and vulnerability assessments and other associated documents to gain understanding of probable terrorism agents including chemical warfare agents, biological warfare agents, and toxic industrial materials. A summary of the findings will be presented at the meeting for discussion and comment by the attendees.

There are multiple classes of respirators having various operational parameters. The Agencies are currently aware that the domestic preparedness community is purchasing self-contained breathing apparatus (SCBA), and full facepiece powered and non-powered air-purifying respirators to equip response teams for which there are no NIOSH chemical/biological respirator approval standards. NIOSH and SBCCOM are in the process of developing chemical and biological respiratory protection standards and guidelines, and will present pertinent information for each class of respirator. The Agencies will discuss potential tests and test parameters being considered for each respirator class.

For SCBA, the parameters are system and component agent permeation testing and laboratory protection level testing. For air-purifying respirators, the same parameters are being considered plus challenge concentrations, breakthrough and end-point concentrations, breathing flow rates, hot and cold temperature function, human wear factors, assessment of current respirator technologies, etc. The status of NIOSH and SBCCOM in these efforts will be presented at the meeting. Participants are invited to provide individual comment on these and other performance, quality, or operational parameters that should be considered.

Comments on the topics presented in this notice should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513–533–8450, fax 513/533–8230. Comments may also be submitted by e-mail to: NIOCINDOCKET@CDC.GOV. E-mail attachments should be formatted as WordPerfect 6/7/8/9, or Microsoft Word. Comments should be submitted to NIOSH no later than May 31, 2001, and should reference docket number, NIOSH–002, in the subject heading.

FOR FURTHER INFORMATION CONTACT: John M. Dower or Ray Wells, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888, telephone 304/285–5907, fax 304/285–6030 and/or Email: respcert@cdc.gov. or Mr. Wayne Davis, Product Director for Respiratory Protection, Project Manager for Nuclear, Biological and Chemical Defense Systems, SBCCOM, 5183 Blackhawk Road, Aberdeen Proving Ground, MD 21010–5424, ATTN: AMSSB–PM–RNN–P/ Mr. Wayne Davis, telephone 410 436–1776, fax 410 436–4185 and/or *Wayne.davis@sbccom.apgea.army.mil.*

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 15, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–6977 Filed 3–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0086]

Draft Guidance for Industry: Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of Biologic Products and Convened by the Center for Biologics Evaluation and Research; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "Guidance for Industry: Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of Biologic Products and Convened by the Center for Biologics Evaluation and Research" dated February 2001. This document, when finalized, is intended to provide guidance to sponsors of applications that are the subject of an open advisory committee meeting convened by the Center for Biologics Evaluation and Research (CBER), beginning on June 1, 2001. The draft guidance document provides procedures that will be adopted by CBER for making information provided to advisory committee members in connection with such meetings publicly available. The draft guidance document also describes how a sponsor should prepare its submission to an advisory committee.

DATES: Submit written comments on the draft guidance to ensure their adequate consideration in preparation of the final document by May 21, 2001. General comments on agency guidance documents are welcome at any time. Submit written comments on the collection of information by May 21, 2001.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self–addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the document and on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled "Guidance for Industry: Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of Biologic Products and Convened by the Center for Biologics Evaluation and Research" dated February 2001. This draft guidance document, when finalized, is intended to provide guidance to sponsors of applications that are the subject of an open advisory committee meeting convened by CBER, beginning on June 1, 2001. The draft guidance document describes procedures that will be adopted by CBER for making information that is provided to advisory committee members in connection with such meetings publicly available. The draft guidance also describes how a sponsor should prepare its submission to an advisory committee.

In the **Federal Register** of November 30, 1999 (64 FR 66920), FDA issued a notice announcing the availability of a guidance document entitled "Disclosure of Materials Provided to Advisory Committees in Connection with Open Advisory Committee Meetings Convened by the Center for Drug Evaluation and Research Beginning on January 1, 2000" (the disclosure policy guidance). The disclosure policy guidance provided FDA's interpretation of the Federal Advisory Committee Act (the FACA, 5 U.S.C. app. 2) and § 314.430 (21 CFR 314.430) with respect to the disclosure of materials provided to advisory committees, and how FDA will exercise its discretion under § 314.430(d)(1) in connection with open advisory committee meetings convened by the Center for Drug Evaluation and Research (CDER), beginning on January 1, 2000. In the **Federal Register** of December 22, 1999 (64 FR 71794), FDA announced the availability of a draft guidance document entitled "Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of New Drugs and Convened by the Center for Drug Evaluation and Research, Beginning on January 1, 2000." That draft guidance document was intended to provide the procedural information referenced in the disclosure policy guidance. Consistent with these principles and the regulations governing disclosure of information concerning biologic license applications at § 601.51 (21 CFR 601.51), CBER is providing this draft guidance on what sponsors may expect concerning the disclosure of information related to an open advisory committee meeting. As stated in the draft guidance, FDA interprets § 601.51 to be consistent with the FACA, and therefore, will exercise its discretion under § 601.51(d)(1) in a manner consistent with FACA and the Freedom of Information Act (the FOIA) (5 U.S.C. 552) to make available for public inspection and copying materials provided to members of an advisory committee in connection with open advisory committee meetings related to the testing or approval of biologic products and convened by CBER, beginning on June 1, 2001.

The draft guidance document entitled "Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of Biologic Products and Convened by the Center for Biologics Evaluation and Research" being announced in this notice is intended to be consistent with CDER's current guidance procedures where possible, and to describe procedures in making the process of complying with the disclosure requirements of the FACA as efficient as possible. These procedures address: (1) The content and organization of a sponsor submission for an advisory committee; (2) the timing of the sponsor submission to CBER; and (3) the process by which CBER will review and redact the sponsor submission and the related CBER submission. However, FDA may revise the draft CBER and CDER guidances based on comments received.

This draft guidance document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document represents the agency's current thinking on the implementation by CBER of the disclosure provisions of the FACA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (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 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.

Draft Guidance for Industry on Disclosing Information Provided to Advisory Committees in Connection With Open Advisory Committee Meetings Related to the Testing or Approval of Biologic Products and Convened by the Center for Biologics Evaluation and Research

FDA is issuing a draft guidance document on procedures that will be adopted by CBER for making information that is provided to advisory committee members in connection with open advisory committee meetings publicly available. The procedures address: (1) The content and organization of a sponsor submission for an advisory committee, (2) the timing of the sponsor submission to CBER, and (3) the process by which CBER will review and redact the sponsor submission and the related CBER submission. Under existing regulations in 21 CFR 14.35(a), sponsors routinely submit information to the agency that will be provided to advisory committee members in connection with advisory committee meetings. A sponsor may submit a package that the sponsor states should be fully disclosed to the public or a package that contains information the sponsor asserts should be withheld from public disclosure under the FOIA. This draft guidance describes the submission of information to the agency that will be provided to the members of an advisory committee in connection with an open advisory committee meeting related to the testing or approval of a biologic product and convened by CBER, beginning on June 1, 2001.

FDA construes the FACA to require that, with respect to any open advisory committee meeting convened under the FACA, whenever practicable and subject to any applicable exemption of the FOIA, those materials that are provided to the members of a CBER advisory committee in connection with that meeting must be made available for public inspection and copying before or at the time of the advisory committee meeting. Therefore, under the draft guidance document, a sponsor may submit two types of packages of materials for an advisory committee in connection with an open advisory committee meeting convened by CBER as follows: (1) A package that the sponsor states should be fully disclosed to the public because it does not contain information that should be withheld from public disclosure under an exemption under the FOIA; or (2) a package that contains information the sponsor asserts should be withheld from public disclosure under the FOIA and that, therefore, must be reviewed by the agency's Freedom of Information staff to ensure that the appropriate information is redacted. The procedures for submitting the two collections of information are described in the draft guidance document.

A. Fully Releasable Submissions

In the draft guidance document, sponsors are strongly encouraged to submit advisory committee packages that may be publicly disclosed in their entirety (i.e., that do not contain any information that the sponsor wishes to assert is exempt from disclosure under the FOIA because it is trade secret or confidential commercial information, or because it is information the disclosure of which would constitute an unwarranted invasion of personal privacy, for example, by clearly identifying individual subjects). Sponsors are also encouraged to submit an electronic version of the package.

B. Submissions That Contain Material the Sponsor Asserts Are Exempt From Disclosure

A sponsor may believe that it is necessary to include material in an advisory committee package that it believes is exempt from disclosure. As described in the guidance, the agency recommends in this circumstance that the sponsor segregate the material it believes is exempt from disclosure from the disclosable material, clearly designate the material that the sponsor believes is exempt from disclosure, and provide a detailed justification of both why that specific information is necessary for the advisory committee's consideration and why it is exempt from disclosure. Sponsors are also encouraged to submit an electronic version of the package.

1. Description of Respondents

A sponsor of an unapproved biological license application (BLA), BLA supplement, or a sponsor of an unapproved new drug application (NDA), NDA supplement, or abbreviated new drug application (ANDA) reviewed by CBER, or device (to the extent permitted by law and if the device application is being discussed in unison with a BLA) that is the subject of an open advisory committee convened by CBER, beginning on June 1, 2001.

2. Burden Estimate

Table 1 of this document provides an estimate of the annual reporting burden for the submission under the guidance of information to CBER that will be provided to the members of an advisory committee in connection with an open advisory committee meeting related to the testing or approval of a biologic product and convened by CBER, beginning on June 1, 2001.

In calendar year 2000, CBER received a total of eight submissions from six sponsors (respondents) in connection with open advisory committee meetings regarding the testing or approval of biologic products. CBER expects that annually, the number of submissions and respondents will remain approximately the same. The procedures for submitting this information that are set forth in the draft guidance document were not in place in calendar year 2000. However, based on CBER's experience with the advisory committee process, and given that the guidance document strongly encourages respondents to submit advisory committee packages that may be publicly disclosed in their entirety, CBER estimates that approximately two-thirds of the total number of respondents (i.e., four respondents) will submit packages that may be disclosed in their entirety, and that approximately two-thirds of the total number of submissions that CBER receives (i.e., five responses) will be fully releasable. In addition, CBER estimates that approximately one-third of the total number of respondents (i.e., two respondents) will submit packages that contain material that the sponsor asserts is exempt from disclosure, and that approximately one-third of the submissions that CBER receives (i.e,

three responses) will contain information that the sponsor asserts is exempt from disclosure.

Based on FDA experience and information provided to the agency by industry, FDA estimates that approximately 700 hours on average would be needed for the preparation of a fully releasable submission and 1,400 hours for that of a submission that contains information the respondent asserts is exempt from disclosure, including the time FDA expects it will take a sponsor to submit an electronic version of the package. The total estimated burden hours under the draft guidance are 7,700. FDA invites comments on the analysis of information collection burdens.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Submissions	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Fully releasable submissions	4	1.25	5	700	3,500
Submissions that contain material that is claimed to be exempt from disclosure	2	1.5	3	1,400	4,200
Total	6	.....	8	.....	7,700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance document and on the collection of information. Submit written comments to ensure adequate consideration in preparation of the final document by May 21, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cber/guidelines.htm.

Dated: March 9, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–6937 Filed 3–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–05]

Announcement of Funding Award—Fiscal Year 2000, Office of Healthy Homes and Lead Hazard Control, National Center for Lead Safe Housing

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to the National Center for Lead Safe Housing. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Joey Zhou, Department of Housing and Urban Development, 451, Seventh Street, SW, Washington, DC, 20410, telephone (202) 755–1785, ext. 153 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead Hazard Control grant for the National Center for Lead Safe Housing was issued pursuant to Pub. L. 102–550, Title X; FY 2000 budget; House Appropriations Committee Report 2684–21.

This notice announces the award of $750,000 to the National Center for Lead Safe Housing which will be used to provide funding to examine and disseminate innovative, lower cost hazard control and educational strategies and provide technical assistance for integrating lead safety in HUD programs.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows: National Center for Lead Safe Housing, 10227 Wincopin Circle, Suite 205, Columbia, MD 21044, Amount of Grant: $750,000.

Dated: March 13, 2001.

David E. Jacobs,

Acting Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–6933 Filed 3–20–01; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Advisory Committee on Water Information; Notice of Reestablishment

This notice is published in accordance with section 9 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), 5 U.S.C. App. (1988). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is reestablishing the Advisory Committee on Water Information (ACWI). OMB Memorandum 92–01 dated December 10, 1991, designated the U.S. Geological Survey (USGS) as the lead agency for the Water Information Coordination Program (WICP) and also designated all other Federal organizations using water resources information to assist the USGS in ensuring the implementatin of an effective WICP.

The purpose of the Committee is to represent the interests of water-information users and professionals in advising the Federal Government on Federal water-information programs and their effectiveness in meeting the Nation's water-information needs. Member organizations will help to foster communications between the Federal and non-Federal sectors on sharing water information.

Membership represents a wide range of water resources interests and functions. Representation of the ACWI includes all levels of government—Tribes, public interest groups, academia, private industry, non-profit and professional organizations. Member organizations designate their representatives and alternatives. Membership is limited to a maximum of 35 organizations.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, 15 days from the date of publication of this notice.

Further information regarding the ACWI may be obtained from the Director, USGS, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Certification of reestablishment is published below.

Certification

I hereby certify that the reestablishment of the Advisory Committee on Water Information is necessary and in the public interest in connection with the performance of duties by the Department of the Interior mandated pursuant to the OMB Memorandum 92–01.

Dated: March 12, 2001.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 01–7053 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–YZ–M

DEPARTMENT OF THE INTERIOR

FISH AND WILDLIFE SERVICE

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of an Application for a Permit for the Incidental Take of the Houston Toad (*Bufo houstonensis*) During Construction of One Single-Family Residence on Approximately 0.5 Acres of a 6.631-Acre Property on Lake Mist Road, Bastrop County, Texas

SUMMARY: Scott and Linda Bell (Applicant) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–039440–0. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of the construction and occupation of one single-family home on approximately 0.5 acres of a 6.631-acre property on Lake Mist Road, Bastrop County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before April 20, 2001.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4201, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–039440–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Scott and Linda Bell plan to construct a single-family residence on approximately 0.5 acres of a 6.631-acre property on Lake Mist Road, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat, as identified by the Service.

Geoffrey L. Haskett,

Acting Regional Director, Region 2 Albuquerque, New Mexico.

[FR Doc. 01–6954 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Harding Property, Douglas County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

SUMMARY: On November 22, 2000, a notice was published in the **Federal Register** (Vol. 65 No. 226 FR 70359), that an application had been filed with the U.S. Fish and Wildlife Service (Service) by Susan K. Harding, Douglas County, Colorado, for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539), as amended (Act), Preble's meadow jumping mouse (*Zapus hudsonius preblei*) on the Harding Property, 101 Allis Ranch Road, Sedalia, Colorado 80135, pursuant to the terms of the Environmental Assessment/Habitat Conservation Plan.

Notice is hereby given that on March 1, 2001, as authorized by the provisions of the Act, the Service issued a permit (PRT–TE035844–0) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Act, as amended.

Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370 between the hours of 7:00 am and 4:30 pm weekdays.

Dated: March 8, 2001.

Ralph O. Morgenweck,

Regional Director, Region 6.

[FR Doc. 01–6976 Filed 3–2–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Aquatic Nuisance Species Task Force will meet from 8:30 a.m. to 5:00 p.m., Wednesday, April 4, 2001 and 8:30 a.m. to 5:00 p.m., Thursday, April 5, 2001.

ADDRESSES: The ANS Task Force meeting will be held at the Hilton San Francisco Fisherman's Wharf, 2620 Jones Street, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2308 or by e-mail at: *sharon_gross@fws.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the ANS Task Force meeting on Wednesday and Thursday include: An update of activities from the Task Force's regional panels; the development of a strategic plan for the ANS Task Force; the Plant Protection Act; a report from the Ballast Water Program Effectiveness and Adequacy Criteria Committee; status and updates from several other Task Force committees including the Green Crab Control Committee, the Caulerpa Prevention Committee, the Mitten Crab Control Committee and the Communications, Education and Outreach Committee; and other topics.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: March 12, 2001.

Cathleen Short,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries and Habitat Conservation.

[FR Doc. 01–6949 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming between the Stillaguamish Tribe of Indians and the State of Washington, which was executed on December 11, 2000.

DATES: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: March 7, 2001.

James McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–6934 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–062–1430–01; UTU–75392]

Notice

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent—proposal for multiple plan amendments.

SUMMARY: The Utah Bureau of Land Management (BLM) is proposing to amend three land use plans and prepare the associated Environmental Assessment (EA). The land use plans are the Grand Resource Area Resource Management Plan (RMP), the San Rafael RMP, and the Price River Management Framework Plan (MFP).

DATES: The comment period for this proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before April 20, 2001.

ADDRESSES: Comments should be sent to Bill Stringer, Assistant Field Office Manager, Resources, BLM Moab Field Office, 82 East Dogwood Avenue, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Bill Stringer, Assistant Field Office Manager, Resources, at the above address or telephone (435) 259–2185. Existing planning documents and information are available at the above address.

SUPPLEMENTARY INFORMATION: The purpose of the amendment is to change the minerals objectives of each plan to conform with the proposed withdrawal, from new locatable mining claims, on sections of the Colorado River, Dolores River, and Green River corridors in southeastern Utah. The notice of the proposed withdrawal, including legal descriptions, was published in the **Federal Register** on December 16, 1999 (FR 64, No. 241, p. 70279) as amended by **Federal Register** notice of January 19, 2000 (FR 65, No. 12, p. 2980). The proposed withdrawal would remove 126,565 acres of public lands from new mineral entry, subject to valid existing rights. The lands have low mineral potential and low development potential. The lands would remain open to the operation of the mineral leasing and mineral sale laws. The proposed withdrawal would protect the outstanding recreational, scenic, wildlife and cultural values on approximately 202 miles of river corridor, generally from rim to rim, and approximately 50 miles of side drainages from the impacts of new mining claims. An environmental assessment will be prepared to analyze the impacts of this proposal and the no-action alternative.

Comments, including names and street addresses of respondents will be available for public review at the BLM Moab Field Office and will be subject to disclosure under the Freedom of Information Act (FOIA). They may be published as part of the Environmental Assessment and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the FOIA, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Douglas M. Koza,
Acting State Director.
[FR Doc. 01–7038 Filed 3–20–01; 8:45 am]
BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–09–0777–42]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session on Saturday, April 7 from 8 a.m. to 5 p.m. The meeting will be held in the Holiday Inn Select, located at 3400 Market Street in Riverside, California.

Agenda topics will include reports, Council discussions and recommendations on the newly designated Santa Rosa and San Jacinto Mountains National Monument, the Northern and Eastern Colorado Coordinated Management Plan and the Northern and Eastern Mojave Plan released for public review and comment, the development of plan amendments for the Eastern San Diego and South Coast resource management plans, and the lawsuit filed against the BLM by the Center for Biological Diversity, the Sierra Club, and the Public Employees for Environmental Responsibility.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the beginning of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez at (909) 697–5220, BLM California Desert District External Affairs.

Dated: March 7, 2001.
Tim Salt,
District Manager.
[FR Doc. 01–7050 Filed 3–20–01; 8:45 am]
BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410–PG]

Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Alaska resource Advisory council meeting.

SUMMARY: The BLM Alaska Resource Advisory Council will conduct an open meeting Thursday, April 19, 2001, from 9 a.m. until 4 p.m. and Friday, April 20, 2001, from 8:30 a.m. until noon. The meeting will be held in the Anchorage Federal Building at 7th and C Street in BLM offices on the fourth floor.

Primary agenda items for this meeting are resource management standards for BLM public lands and review of the State conveyance priority process. The council will hear public comments on Thursday, April 19, 2001, from 1–2 p.m. Written comments may be mailed to BLM at the address below.

ADDRESSES: Inquiries or comments should be sent to BLM External Affairs, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, 907–271–3322, or via e-mail to *teresa—mcpherson@ak.blm.gov.*

Francis R. Cherry, Jr.,
State Director.
[FR Doc. 01–7037 Filed 3–20–01; 8:45 am]
BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–1020–PG; G 01–0126]

Southeast Oregon Resource Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Burns District, Interior.

ACTION: Meeting Notice for the Southeast Oregon Resource Advisory Council.

SUMMARY: The Southeast Oregon Resource Advisory Council (SEORAC) will meet at the Holiday Inn, 1249 Tapadera Avenue, Ontario, Oregon 97914, from 8:00 a.m. to 5:00 p.m., Mountain Daylight Time (MDT), on Monday, April 23, 2001, and conduct a field tour on Wildfire Issues Associated with the Urban Interface, Tuesday, April 24, 2001. Contact the BLM office listed below for exact time as the tour date approaches.

The meeting topics to be discussed by the council will include the establishment of the Steens Mountain Advisory Council (SMAC), a report from the Lakeview Resource Management Plan (RMP) subcommittee and the Bully Creek Lndscape Area Management Plan (LAMP), a presentation on minerals in the southeast Oregon area, National and local wildland fire planning report, Federal officials' update, Secure Rural Schools and Community Self-determination Act of 2000 and establishment of the associated Resource Advisory Council, and such other matters as may reasonably come before the Council. The entire meeting is open to the public. Information to be distributed to the Council members is requested in written format 10 days prior to the start of the Council meeting. Public comment is scheduled for 11:15 a.m. to 11:45 a.m., MDT on April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SEORAC may be obtained from Holly LaChapelle, Resource Assistant, Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, (541) 573–4501, or *Holly LaChapelle@or.blm.gov* or from the following web site *http://www.or.blm.gov/SEOR–RAC.*

Dated: March 6, 2001.
Thomas H. Dyer,
District Manager.
[FR Doc. 01–7049 Filed 3–20–01; 8:45 am]
BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–930–1060–PC–241A]

Notice of Use of Aircraft in Maricopa, Yuma, La Paz, and Mohave Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Public hearing to receive comments on the use of aircraft to gather and census wild burros and horses in Arizona.

SUMMARY: Notice is hereby given that the Bureau of Land Management will use aircraft to gather and census wild burros and horses in Arizona for the period of May–December 2001. The

public is hereby invited to attend a public hearing on April 12, 2001, at the BLM Lake Havasu Field Office (conference room), 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406 from 1:00 to 3:00 p.m. to receive comments on the use of aircraft in wild horse and burro management.

FOR FURTHER INFORMATION CONTACT: Kelly Grissom, State Wild Horse and Burro Specialist, Bureau of Land Management, 222 North Central Avenue, Phoenix, Arizona 85004–2203, telephone (602) 417–9441, E-mail: *kelly_grissom@blm.gov.*

Denise P. Meredith,

Arizona State Director.

[FR Doc. 01–7036 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–920–01–1310–FI–P; MTM 84616]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Public Law 97–451, the lessee timely filed a petition for reinstatement of oil and gas lease MTM 84616, Richland County, Montana. The lessee paid the required rental accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $5 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $148 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $5 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $148 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–896–5098.

Dated: March 7, 2001.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 01–7051 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

[MT–920–01–1310–FI–P; NDM 89510, NDM 89511]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Public Law 97–451, the lessee timely filed a petition for reinstatement of oil and gas leases NDM 89510 and NDM 89511, Billings County, North Dakota. The lessee paid the required rentals accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16 percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the leases and $148 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the leases per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination subject to:

- The original terms and conditions of the leases;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $148 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–896–5098.

Dated: March 8, 2001.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 01–7052 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–170–1430–ES: COC 62360]

Notice Of Realty Action; Recreation and Public Purposes Act Classification and Application; Colorado

AGENCY: Bureau Of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following lands in San Juan County, Colorado, have been examined and found suitable for classification for lease and conveyance under the provisions of the Recreation and Public Purposes Act (R&PP), as amended (43 U.S.C. 869 *et seq.*). The purpose of the classification and application for R&PP lease and potential conveyance is to allow construction and operation of the Kendall Mountain Recreation Area, Silverton, Colorado.

New Mexico Principal Meridian

T. 41 N., R. 7 W.,
Sec. 17: E½, SE¼SW¼.

Lease and conveyance is consistent with current BLM land use planning and would be in the public interest. The lease/patent, if issued, would be subject to valid existing rights and the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States.
3. All minerals should be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit written comments regarding the classification and proposed lease and conveyance of the lands to the Field Manager, San Juan Field Office, 15 Burnett Court, Durango, Colorado, 81301.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a recreation area. Comments on the Classification are restricted to whether

the land is suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments the classification will become effective 60 days from the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Clyde Johnson, San Juan Field Office, phone (970) 385–1352. Documents pertinent to this proposal may be reviewed at the San Juan Field Office, 15 Burnett Court, Durango, Colorado.

Kent Hoffman,

Associate Field Manager.

[FR Doc. 01–7039 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents. Prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by MMS for oil and gas activities proposed on the Gulf of Mexico OCS.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
Texaco Exploration and Production Inc., Exploration Activity, SEA No. S–5409.	Green Canyon Area, Block 137, Lease OCS–G 11026, 113 miles off the Louisiana coast.	12/28/00
Shell Deepwater Development, Inc., Development Activity, SEA No. N–6926.	Mississippi Canyon Area, Blocks 898 and 899, Leases OCS–G 9895 and 9896, 63 miles off the Louisiana coast.	01/04/01
Union Oil Company of California, Development Activity, SEA No. R–3523.	Pensacola Area, Block 881, Lease OCS–G 6390, 8 miles off the Alabama coast.	01/11/01
Atlantic Richfield Company, Structure Removal Activity, SEA No. ES/SR 99–099A.	High Island Area, Block 115, Lease OCS–G 6155, 25 miles off the Texas coast.	11/20/00
Ocean Energy, Inc., Structure Removal Activity, SEA No. ES/SR 00–124.	Mustang Island Area, Block 828, Lease OCS–G 6004, 29 miles off the Texas coast.	10/11/00
Basin Exploration, Inc., Structure Removal Activity, SEA No. ES/SR 00–125.	Eugene Island Area, Block 64, Lease OCS–G 2098, 17 miles off the Louisiana coast.	10/19/00
Energy Resource Technology, Inc., Structure Removal Activity, SEA No. ES/SR 00–126.	Eugene Island Area, Block 232, Lease OCS–G 3537, 68 to 120 miles off the Louisiana coast.	10/20/00
Texaco Exploration and Production, Inc. Structure Removal Activity. SEA No. 00–127.	South Pass Area, Block 54, Lease OCS–G 1606, 9 to 28 miles off the Louisiana coast.	10/24/00
Union Oil Company of California, Structure Removal Activity, SEA No. ES/SR–128.	Ship Shoal Area, South Addition, Block 268, Lease OCS–G 7757, 55 to 77 miles off the Louisiana coast.	10/24/00
Conn Energy, Inc., Structure Removal Activity, SEA Nos. ES/SR	West Cameron Area, Block 171, Lease OCS–G 1997, 27 miles 00–129 through 00–131 off the Louisiana coast.	11/03/00
Texaco Exploration and Production, Inc., Structure Removal Activity, SEA No. ES/SR 00–132.	High Island Area, South Addition, Block A 548, Lease OCS–G 2706, 99 miles off the Texas coast.	11/14/00
Coastal Oil & Gas Corporation, Structure Removal Activity, SEA No. ES/SR 00–133.	High Island Area, Block A 497, Lease OCS–G 6231, 103 miles off the Texas coast.	12/27/00
Basin Exploration Inc., Structure Removal Activity, SEA Nos. ES/SR 00–134 and 00–135.	West Cameron Area, Block 21, Lease OCS–G 1352, 5 miles off the Louisiana coast.	11/28/00
ExxonMobil Production Company, Structure Removal Activity, SEA Nos. ES/SR 00–136 and 00–137.	Brazos Area, Block 578, Lease OCS–G 4457, 33 miles off the Texas coast.	12/27/00
Coastal Oil and Gas Corporation, Structure Removal Activity, SEA No. 00–138.	Viosca Knoll Area, Block 122, Lease OCS–G 14596, 24 miles off the Alabama coast.	12/27/00
Coastal Oil and Gas Corporation, Structure Removal Activity, SEA No. 00–139.	Viosca Knoll Area, Block 35, Lease OCS–G 13978, 19 miles off the Alabama coast.	01/04/01

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact MMS at the address or telephone in the **FOR FURTHER INFORMATION** section.

Dated: March 15, 2001.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 01–7048 Filed 3–20–01; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–428]

Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: March 14, 2001.

SUMMARY: Following receipt of a request from the United States Trade Representative (USTR) on March 5, 2001, the Commission instituted Investigation No. 332–428, Apparel Inputs in "Short Supply': Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice in connection with the "short supply" provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA).

FOR FURTHER INFORMATION CONTACT: For general information, contact Jackie W. Jones (202–205–3466; jones@usitc.gov) of the Office of Industries; for information on legal aspects, contact William Gearhart (202–205–3091; wgearhart@usitc.gov) of the Office of the General Counsel. The media should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired individuals may 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 about the Commission may 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.

Background

Section 112(b)(5) of the AGOA and section 213(b)(2)(A)(v) of the Caribbean Basin Economic Recovery Act (CBERA), as added by section 211(a) of the CBTPA, allow preferential treatment for apparel made in beneficiary countries from certain fabrics or yarns to the extent that apparel of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 of the North American Free Trade Agreement. These sections also authorize the President, on request of an interested party, to proclaim preferential treatment for apparel made in beneficiary countries from additional fabrics or yarn, if the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President complies with certain procedural requirements, one of which is to obtain the advice of the Commission. The President is required to submit a report to the House Ways and Means and Senate Finance Committees that sets forth the action proposed to be proclaimed, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee, within 60 days after a request is received from an interested party.

In Executive Order No. 13191, the President delegated to the Committee for the Implementation of Textile Agreements (CITA) the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. He authorized CITA and the USTR to submit the required report to the Congress, and delegated to USTR the authority to obtain advice from the Commission.

As requested by the USTR, the Commission will provide advice regarding the probable economic effect of providing preferential treatment for apparel made in AGOA and/or CBTPA beneficiary countries from fabrics or yarn, regardless of the source of the fabrics or yarn, which allegedly cannot be supplied by the domestic industry in commercial quantities in a timely manner (i.e., which allegedly are in "short supply"). The advice will be provided as to the probable economic effect of such action on affected segments of the U.S. textile and apparel industries, workers in these industries, and consumers of affected goods.

The Commission will provide all such advice during 2001 under a single investigation number. The Commission will not publish notices in the **Federal Register** of receipt of individual requests for advice. Instead, the Commission will issue a news release each time it initiates an analysis, and the news release will identify the article(s) under consideration, indicate the deadline for submission of public comments on the proposed preferential treatment, and provide the name, telephone number, and Internet e-mail address of staff who will be able to provide additional information on the request. CITA publishes a summary of each request from interested parties in the **Federal Register**. To view these notices, see the U.S. Department of Commerce, Office of Textiles and Apparel's (OTEXA) Internet site at http://otexa.ita.doc.gov/fr.stm. The Commission has developed a special area on its Internet site (http://www.usitc.gov/shortsup/shortsupintro.htm) to provide the public with information on the status of each request for which the Commission initiated analysis. The Commission has also developed a group list of facsimile addresses of interested parties or individuals who wish to be automatically notified via facsimile about any requests for which the Commission initiated analysis. Interested parties may be added to this list by notifying Jackie W. Jones (202–205–3466; jones@usitc.gov).

The Commission will submit its reports to the USTR not later than the 47th day after receiving a request for advice (or on the next business day if the 47th day falls on a weekend or holiday). The Commission will issue a public version of each report as soon thereafter as possible, with any confidential business information deleted.

Written Submissions

Because of time constraints, the Commission will not hold public hearings in connection with the advice provided under this investigation number. However, interested parties will be invited to submit written statements (original and 3 copies) concerning the matters to be addressed by the Commission in this investigation. The Commission is particularly interested in receiving input from the private sector on the likely effect of any proposed preferential treatment on affected segments of the U.S. textile and apparel industries, their workers, and

consumers. Commercial or financial information that a person desires the Commission to treat as confidential must be submitted in accordance with § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). The Commission's Rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include confidential business information submitted in the course of this investigation in the reports to the USTR. In the public version of these reports, however, the Commission will not publish confidential business information in a manner that could reveal the individual operations of the firms supplying the information. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

List of Subjects:

Caribbean, African, tariffs, imports, yarn, fabric, and apparel.

Issued: March 15, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–7017 Filed 3–20–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–454]

In the Matter of Certain Set-Top Boxes and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 14, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Gemstar-TV Guide International, Inc. of Pasadena, California and StarSight Telecast, Inc. of Fremont, California. A supplement to the complaint was filed on March 7, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes and components thereof by reason of infringement of claims 18–24, 26, 27, 28, 31, 32, 33, 36, 42, 43, 48–51, 54, 57–61, and 66 of U.S. Letters Patent 4,706,121; claims 1–5 and 10–14 of U.S. Letters Patent 5,253,066; claims 1, 3, 8, and 10 of U.S. Letters Patent 5,479,268; and claims 14–17, 19, and 31–35 of U.S. Letters Patent 5,809,204. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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*.

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2000).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on March 14, 2001, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain set-top boxes or components thereof by reason of infringement of claims 18–24, 26, 27, 28, 31, 32, 33, 36, 42, 43, 48–51, 54, 57–61, or 66 of U.S. Letters Patent 4,706,121; claims 1–5 or 10–14 of U.S. Letters Patent 5,253,066; claims 1, 3, 8, or 10 of U.S. Letters Patent 5,479,268; or claims 14–17, 19, or 31–35 of U.S. Letters Patent 5,809,204; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Gemstar-TV Guide International, Inc.
135 North Los Robles Avenue
Suite 800
Pasadena, California 91101

StarSight Telecast, Inc.
39650 Liberty Street
Fremont, California 94538

(b) The respondents are the following companies upon which the complaint is to be served—

Pioneer Corporation
4–1, Meguro 1-chome
Meguro-ku
Tokyo 153–8654
Japan

Pioneer North America, Inc.
2265 East 220th Street
Long Beach, California 98010

Pioneer Digital Technologies, Inc.
6170 Cornerstone Court
East San Diego, California 92121

Pioneer New Media Technologies, Inc.
2265 East 220th Street
Long Beach, California 98010

Scientific-Atlanta, Inc.
One Technology Parkway, South
Norcross, Georgia 30092–2967

EchoStar Communications Corporation
5701 South Santa Fe Drive
Littleton, Colorado 80120

SCI Systems, Inc.
2101 West Clinton Avenue
Huntsville, Alabama 35805

(c) Thomas S. Fusco, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–O, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Debra Morriss is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's rules of practice and

procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: March 15, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–7016 Filed 3–20–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–427]

U.S. Market Conditions for Certain Wool Articles

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 COB April 2, 2001.

EFFECTIVE DATE: March 13, 2001.

PURPOSE OF INFORMATION COLLECTION: The forms are for use by the Commission in connection with investigation No. 332–427, U.S. Market Conditions for Certain Wool Articles, 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 United States Trade Representative (USTR). The Commission expects to deliver the results of its investigation to the USTR in two annual reports, the first of which is due by September 17, 2001, and the second, September 16, 2002.

Summary of Proposal

(1) Number of forms submitted: 4

(2) Title of form: Questionnaire for U.S. Producers of Worsted Wool Fabrics; Questionnaire for U.S. Purchasers of Worsted Wool Fabrics; Questionnaire for U.S. Importers of Worsted Wool Fabrics; Questionnaire for U.S. Producers and Purchasers of Combed Wool Yarn.

(3) Type of request: new

(4) Frequency of use: Two annual data collections, scheduled for 2001 and 2002.

(5) Description of respondents: U.S. producers, purchasers, and importers of worsted wool fabrics, and U.S. producers and purchasers of combed wool yarn.

(6) Estimated number of respondents: 79 (producers, purchasers, and importers)

(7) Estimated total number of hours to complete the forms: 1,700 hours

(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 may be obtained from Kim Freund (202–708–5402; kfreund@usitc.gov) of the Office of Industries. Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. 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 TDD terminal (telephone No. 202–205–1810). 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.

Issued: March 14, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–7018 Filed 3–20–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested; Drug Court Grantee Data Collection Survey

ACTION: Notice of information collection under review; revision of a currently approved collection.

The Department of Justice, Office of Justice Programs, Drug Courts Program Office, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This 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 May 21, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact

Marilyn M. Roberts, Director Drug Courts Program Office, 202–514–6452, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531 or via facsimile at (202) 514–6452.

Overview of This Information

(1) *Type of information collection:* Revision of currently approved collection.

(2) *The title of the form/collection:* Drug Court Grantee Data Collection Survey

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* none. Drug Courts Program Office, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal. *Other:* None.

This survey will assist in the national evaluation of drug courts. The data to be collected will assist in determining the effectiveness of these grants and the information will be shared with the drug court field to improve program quality.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 300 respondents wil complete a .75 to 1.25 hour survey semi-annually.

(6) *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total public burden hours associated with the collection is 450–750 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place, Suite 1220, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Dated: March 15, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–6989 Filed 3–20–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested; Victims of Crime Act, Victim Compensation Grant Program, State Performance Report

ACTION: Notice of information collection under review; revision of a currently approved collection.

The Department of Justice, Office of Justice Programs, Office for Victims of Crime, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This 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 May 21, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Toni Thomas, 202–616–3579, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531.

Overview of This Information

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is OJP Admin Form 7390/6. Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State government. *Other:* None.

The Victims of Crime Act as amended and the Program Guidelines require each state crime victim compensation program to submit an annual Performance Report. Information received from each program is aggregated to form the basis of the OVC Director's report to the President and Congress on the effectiveness of the activities supported with Victims of Crime Act Funds.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 53 respondents will complete the annual report in 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total burden hours associated with this collection is 106 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place, Suite 1220, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Dated: March 15, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–6990 Filed 3–20–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested; Victimization of People With Disabilities Study

ACTION: Notice of information collection under review; new collection.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for

review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until May 21, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michael Rand, (202) 616–3494, Bureau of Justice Statistics, Office of Justice Statistics, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

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 proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* The Victimization of People With Disabilities Study.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms: CDER–1A, CDER–2A, CDER–1B, CDER–2B.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. *Other:* None. The Victimization of People With Disabilities Study will interview approximately 200 persons with developmental disabilities, age 12 or older, using existing questionnaires and modified questionnaires to test suitability of the standard and modified questionnaires for a population of developmentally disabled individuals. Additionally, this test will evaluate U.S. Bureau of the Census interviewer training program for collecting victimization data from persons with disabilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that a total of 300 respondents will respond to a 1 hour interview.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated burden hours associated with this collection is 180 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, National Place, Suite 1220, 1331 Pennsylvania Avenue NW., Washington, D.C. 20530.

Dated: March 15, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United Stated Department of Justice.

[FR Doc. 01–6991 Filed 3–20–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Extension/Clarification of Solicitation for a Cooperative Agreement—Documentation of the Impact of NIC Executive Leadership Training for Women

AGENCY: National Institute of Corrections, Justice.

ACTION: Extension/clarification solicitation for a cooperative agreement.

SUMMARY: The Department of Justice, National Institute of Corrections (NIC) announces an extension of the closing date and a clarification of eligibility to the notice of a solicitation for a cooperative agreement in Fiscal Year 2001 for "Documentation of the Impact of NIC Executive Leadership Training for Women" which was printed in the February 28, 2001 edition (Volume 66, Number 40 of the **Federal Register**, pages 12811–12813. The closing date is extended to April 4, 2001.

Clarification of Eligibility of Applicants: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Deadline for Receipt of Applications: Applications must be received by 4:00 pm on Wednesday, April 4, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: A copy of this announcement, application and forms may be obtained through the NIC web site: *http://www.nicic.org* (click on "Cooperative Agreements"). If a written copy is needed contact Judy Evens, Cooperative Agreement Control Office (1–800–995–6423 x 44222 or (202) 307–3106 ext. 44222, e-mail at *jevens@bop.gov.*) All technical and/or programmatic questions concerning this announcement should be directed to Andie Moss, Project Manager, at 320 First Street, NW., Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 30485, 202–307–3106, ext. 30485, or e-mail: amoss@bop.gov.

Number of Awards: One (1).

NIC Application Number: 01P05. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Catalog of Federal Domestic Assistance Number: 16.603.

Dated: March 16, 2001.

Larry B. Solomon,

Deputy Director, National Institute of Corrections.

[FR Doc. 01–7035 Filed 3–20–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.c. chapter 35. A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E–mail to King-Darrin@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs: Attn: OMB Desk Office for OSHA, Office of Management and

Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), on or before April 20, 2001.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Dipping and Coating Operations (Dip Tanks).

OMB Number: 1218–0237.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Frequency: On occasion.

Number of Respondents: 0.

Number of Annual Responses: 0.

Estimated Time Per Response: 0.

Total Burden Hours: 1.

Total Annulized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services):: $0.

Description: 29 CFR 1910.126(g)(4) requires employers to determine the minimum safe distance (i.e., twice the sparking distance) that employees must maintain between equipment undergoing electrostatic detearing and the electrodes or conductors of the equipment used in the detearing process. Employers must conspicuously display the minimum safe distance on a sign located near this equipment.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Portable Fire Extinguishers, Annual Maintenance Certification Record.

OMB Number: 1218–0238.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Frequency: Annually.

Number of Respondents: 132,000.

Number of Annual Responses: 132,000.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 66,000.

Total Annulized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services):: $19,008,000.

Description: 29 CFR 1910.157(e)(3) requires employers to annually inspect portable fire extinguisher for normal operation; record the maintenance date; maintain the maintenance record for one year after the last entry or for the life of the shell, whichever is less; and make the record available to the Assistant Secretary upon request.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 01–6969 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36, 151]

Adflex Solutions, Inc. (Now Known as Innovex) Chandler, AZ; Amending Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 17, 1999 applicable to workers of Adflex Solutions, Incorporated, Chandler, Arizona. The notice was published in the **Federal Register** on September 29, 1999 (64 FR 52540).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of flexible circuits. New findings show that in September, 1999, Innovex, Incorporated purchased Adflex Solutions, Incorporated and became know as Innovex. Findings also show that workers separated from employment at the subject firm have their wages reported under a separate unemployment insurance (UI) tax account for Innovex.

Accordingly, the Department is amending the certification to correctly identify the new title name to read Adflex Solutions, Incorporated now known as Innovex, Chandler, Arizona.

The intent of the Department's certification is to include all workers of Adflex Solutions, Incorporated adversely affected by increased imports.

The intent of the Department's certification is to include all workers of Adflex Solutions, Incorporated adversely affected by increased imports.

The amended notice applicable to TA–W–36, 526 is hereby issued as follows:

All workers of Adflex Solutions, Incorporated, now know as Innovex, Chandler, Arizona who became totally or partially separated from employment on or after April 20, 1998 through August 17, 2001 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of March, 2001.

Linda G. Poole,

Certification Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–6964 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 2, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 2, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 20th day of February, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 02/20/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,684	Ashley Leigh (Wkrs)	Hillsville, VA	02/05/2001	Sportswear
38,685	Hendrickson Spring Boler (Wkrs)	Chicago, IL	01/31/2001	Truck Springs
38,686	Pilling Weck (Wkrs)	Irvington, NJ	01/31/2001	Surgical Scissors
38,687	Outboard Marine—OMC (Wkrs)	Lebanon, MO.	01/29/2001	Outboard Motors
38,688	Cooper Tools Nicholson (Co.)	Greenville, MS.	02/05/2001	Hacksaw Blades
38,689	Sony Disc Manufacturing (Co.)	Carrollton, GA.	01/30/2001	Recording Tape
38,690	C-Cor.net (Wkrs)	State College, PA.	02/06/2001	Cable Television Amplifiers
38,691	Cone Mills Corp. (Wkrs)	Marion, SC	02/05/2001	Printed Piece Goods
38,692	Isaacson and Kater Button (Co.)	Cleveland, OH.	01/22/2001	Buttons
38,693	Summit Timber Co. (Co.)	Darrington, WA.	01/25/2001	Dimension Lumber
38,694	Thrall Cor Manufacturing (Co.)	Chicago Heights, IL.	01/15/2001	Railroad Cars
38,695	Drummond Coal Co. (Wkrs)	Jasper, AL	01/30/2001	Coal
38,696	Purolator Product (UAW)	Elmira, NY	02/02/2001	Starter Drives and Fuel Pumps
38,697	BP Exploration Alaska (Co.)	Anchorage, AK.	01/31/2001	Oil and Gas Exploration and Production
38,698	Powermatic Corp. (USWA)	McMinnville, TN.	02/08/2001	Wood Working Machinery
38,699	General Electric (Wkrs)	Morrison, IL	02/02/2001	Cold Appliance Controls
38,700	Challenger Electric Co. (Wkrs)	Pageland, SC.	01/16/2001	Street Light Assembly
38,701	Woodgrain Millwork, Inc (Co.)	Fruitland, ID	02/02/2001	Mouldings, Door Parts, Window Parts
38,702	Airtex Products (Wkrs)	Fairfield, Il	01/29/2001	Water Pump and Fuel Pump Components
38,703	Olsonite Corp. (Wkrs)	Algmoma, WI	02/05/2001	Toilet Seats
38,704	Accuride Corp. (Wkrs)	Henderson, KY.	02/01/2001	Steel Rims and Wheels
38,705	Empire Specialty Steel (USWA)	Dunkin, NY	01/29/2001	Specialty Stainless Steel
38,706	Sample Service (Wkrs)	Long Island, NY.	02/07/2001	Books, Bindery and Sample Cards
38,707	Philips Consumer Elec. (Wkrs)	Knoxville, TN	12/29/2000	Design and Development Services
38,708	AAA Action Roofing (Co.)	Terrance, CA	02/08/2001	Roofing
38,709	Flint Ink Corp. (Wkrs)	W. St. Paul, MN.	01/31/2001	Offset Sheetfed Inks
38,710	Sure Cutting Services (Wkrs)	Opa Lock, FL.	01/25/2001	Apparel Cutting Services
38,711	Hart Schaffner & Marx (UNITE)	Rochester, IN.	02/08/2001	Men's Clothing
38,712	Dave Szalay Logging (Co.)	Whitefish, MT.	02/07/2001	Timber Products
38,713	Agrifrozen Foods (IBT)	Salem, OR	02/09/2001	Vegetable Processing/Warehouse
38,714	Spec Cast (Wkrs)	Dyersville, IA	02/03/2001	Die Cast Machinery
38,715	Vilter Manufacturing Corp (USWA)	Cudahu, WI	02/09/2001	Pressure Vessels
38,716	Toshiba America Info. (Wkrs)	Irvine, CA	02/09/2001	Printed Circuit Board Operation

[FR Doc. 01–6968 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,453; TA–W–36,453A]

Diamond Offshore Drilling, Inc. Houston, Texas (Operating at Various Offshore Drilling Sites Located In American Waters) and Diamond Offshore Management Co. (Operating at Various Locations In Louisiana)

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 13, 1999, applicable to workers of Vinson Timber Products, Inc., Trout Creek, Montana. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43724).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the exploration and drilling of crude oil and natural gas. Findings show that workers separated from employment at Diamond Offshore Drilling, Inc., operating at various locations in the State of Louisiana, had their wages reported under a separate unemployment insurance (UI) tax account for Diamond Offshore Management Company.

The intent of the Department's certification is to include all workers of Diamond Offshore Drilling, Inc. who were adversely affected by increased imports. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to TA–W–36,453 is hereby issued as follows:

All workers of Diamond Offshore Drilling, Inc., Houston, Texas and operating at various offshore drilling sites located in American waters and Diamond Offshore Management Company, operating at various locations in the State of Louisiana who became totally or partially separated from employment on or after June 6, 1998 through July 13, 2001 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–6963 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 2, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 2, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 26th day of February, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 02/26/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,717	International Paper (Comp)	Milford, ME	02/15/2001	Lumber
38,718	Weyerhaeuser Co (IAM)	Mt. Pine, AR	02/08/2001	Millwork Operation
38,719	Weyerhaeuser Co (IAM)	Dierks, AR	02/08/2001	Plywood
38,720	M and S Sewing, Inc (Wrks)	Van Nuys, CA.	01/29/2001	Blouses and Uniforms
38,721	HPM Corp. (Comp)	Mt. Gilead, OH.	01/26/2001	Injection Molding Equipment
38,722	Lancaster Electro (Wrks)	Lancaster, OH.	02/12/2001	Electro Plating
38,723	Artech Printing, Inc. (GCIU)	Sturtevant, WI.	02/09/2001	Children's Books
38,724	United Technologies (IAM)	Zanesville, OH.	02/09/2001	Headlight Switches
38,725	Ametek/Dixson Division (Wrks)	Grand Junction, CO.	02/09/2001	Mechanical Gauges
38,726	Avery Dennison (Wrks)	Quakertown, PA.	02/08/2001	Pressure Sensitive Material
38,727	Edscha—Jackson Division (UAW)	Jackson, MI	01/30/2001	Door Hinges for Ford
38,728	Equistar Chemicals (UAJAPP)	Port Arthur, TX.	02/07/2001	Polyethylene Plastics
38,729	CAE Newnes, Inc. (Comp)	Sherwood, OR.	02/08/2001	Lumber handling Equipment

APPENDIX—Continued

[Petitions instituted on 02/26/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,730	Cardinal Industries (Wrks)	Grundy, VA	02/08/2001	Nylon and Satin Jackets
38,731	Great Lakes Paper Co (IBT)	Clifton, NJ	02/08/2001	Materials for Lighting & Lamp Shades
38,732	Haggar Clothing Co (Comp)	Edinburg, TX	02/14/2001	Men's Apparel
38,733	Oremet (ATI) (USWA)	Albany, OR	02/10/2001	Titanium Sponge, Magnesium
38,734	Quadion Co/Minnesota (USWA)	Mason City, IA.	02/23/2001	Rubber Power Brakes
38,735	Motorola (Wrks)	Harvard, IL	01/23/2001	Cellular Phones

[FR Doc. 01–6967 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,344]

Rockwell Automation Department 255, Milwaukee, WI, Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 20, 2000, in response to a worker petition which was filed by the International Union of Electronic. Electrical, Salaried, Machine and Furniture Workers, Local 1111, on behalf of workers at Rockwell Automation, Milwaukee, Wisconsin.

An active certification covering the petitioning group of workers at the subject firm remains in effect (TA–W–35,304). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 6th day of March, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–6965 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04286]

Poly One Corp. (Formerly The GEON Co., Denver Compound Plant Denver, Co. Including Temporary Workers of UNICCO Service Co. Employed at Poly One Corp. Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 31, 2001, applicable to workers of Poly One Corporation, (Formerly The Geon Company), Denver Compound Plant, Denver,Colorado. The notice was published in the **Federal Register** on March 2, 2001 (66 FR 13087).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that the Department inadvertently excluded temporary workers of UNICCO Service Company, Denver, Colorado who were employed at Poly One Corporation, (Formerly The Geon Company), Denver Compound Plant, Denver Colorado. Information provided by the company shows that some employees of the subject firm were temporary workers from UNICCO Service Company to produce polyethylene plastics used for covering cable wires at the Denver, Colorado location.

Based on these findings, the Department is amending the certification to include temporary workers of UNICCO Service Company, Denver, Colorado employed at Poly One Corporation (formerly The Geon Company), Denver Compound Plant, Denver, Colorado.

The intent of the Department's certification is to include all workers of Poly One Corporation, (formerly The Geon Company), Denver Compound Plant, Denver, Colorado adversely affected by a shift of production to Canada.

The amended notice applicable to NAFTA—04286 is hereby issued as follows:

All workers of Poly One Corporation (formerly The Geon Company), Denver Compound Plant, Denver, Colorado including temporary workers of UNICCO Service Company producing polyethylene plastics at Poly One Corporation (formerly The Geon Company), Denver Compound Plant, Denver, Colorado who became totally or partially separated from employment on or after November 8, 1999 through January 31, 2003 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of March, 2001.

Linda G. Poole,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 01–6962 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04399]

Tyco Electronics; The Thomas and Betts Corporation; Irvine, CA; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 4, 2001, applicable to workers of Tyco Electronics, Irvine, California. The notice was published in the **Federal Register** on February 8, 2001 (66 FR 9600).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The

workers produced electronic connectors and cable assemblies. Information received from the State shows that Tyco Electronics purchased The Thomas and Betts Corporation in July, 2000. Information also shows that some workers separated from employment at Tyco Electronics had their wages reported under a separate unemployment insurance (UI) tax account for The Thomas and Betts Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Tyco Electronics, Irvine, California who were adversely affected by the shift of production to Mexico. The amended notice applicable to NAFTA–04399 is hereby issued as follows:

"All workers of Tyco Electronics, The Thomas Betts Corporation, Irvine, California who became totally or partially separated from employment on or after December 11, 1999 through January 4, 2003 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC this 28th day of February, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–6961 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than April 2, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than April 2, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 8th day of March 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Subject firm	Location	Date received at Governor's office	Petition number	Articles produced
York International (Co.)	Portland, OR	01/29/2001	NAFTA–4,523	Air systems.
Philips Consumer Electronics (Wkrs)	Knoxville, TN		NAFTA–4,524	Cartons.
C-Cor.Net (Wkrs)	State College, PA	02/09/2001	NAFTA–4,525	Cable television amplifiers.
Key Tronic (Co.)	Spokane, WA	02/09/2001	NAFTA–4,526	Plastic molded parts.
Flint—Commercial Printing Ink (Wkrs)	W. St. Paul, MN	02/08/2001	NAFTA–4,527	Printing ink.
Fruit of the Loom (Co.)	Greenville, MS	01/30/2001	NAFTA–4,528	Garments.
International Paper (PACE)	Cincinnati, OH	01/31/2001	NAFTA–4,529	Folding cartons.
Sterling Last (Co.)	Henderson, TN	02/08/2001	NAFTA–4,530	Shoe last.
Xerox—North American Mfg. (UNITE)	Webster, NY	02/07/2001	NAFTA–4,531	Copiers.
Olsonite Corporation (Wkrs)	Algoma, WI	02/07/2001	NAFTA–4,532	Seats.
Woodgrain Millwork (Co.)	Fruitland, ID	02/05/2001	NAFTA–4,533	Door parts & window parts.
Fleetguard Nelson Logistics (Wkrs)	Black River Falls, WI.	02/02/2001	NAFTA–4,534	Exhaust & filtration.
Owens Corning (GMPPA)	Newark, OH	02/07/2001	NAFTA–4,535	Glass.
Thrall Cor—Duchossois Industries (IBB)	Chicago Heights, IL	02/02/2001	NAFTA–4,536	Freight rail cars.
Dietrich Milk Products (IBT)	Middlebury Center, PA.	02/06/2001	NAFTA–4,537	Whole milk powder.
Chinatex America Holding (Co.)	New York, NY	02/06/2001	NAFTA–4,538	Apparel.
Sony Disc Manufacturing (Co.)	Carrollton, GA	02/12/2001	NAFTA–4,539	Cassette tapes.
Rossville Chromatex—Culp (UNITE)	West Hazelton, PA	02/12/2001	NAFTA–4,540	Woven upholstry materials.
Weyerhaeuser (Wkrs)	Dierks, AR	02/12/2001	NAFTA–4,541	Plywood, pine lumber.
Weyerhaeuser (Wkrs)	Mt. Pine, AR	02/12/2001	NAFTA–4,542	Millwork products & lumber.
Agrifrozen Foods—Agrilink (IBT)	Salem, OR	02/10/2001	NAFTA–4,543	Vegetable processing.
CAE Newnes (Co.)	Sherwood, OR	02/09/2001	NAFTA–4,544	Lumber handling equipment.
Accuride Corporation (Wkrs)	Henderson, KY	02/12/2001	NAFTA–4,545	Steel rims and wheels.
Dave Szalay Logging (Co.)	Whitefish, MT	02/08/2001	NAFTA–4,546	Saw logs.
ASARCO (Co.)	East Helena, MT	02/09/2001	NAFTA–4,547	Ore concentrate.
Louisiana Pacific (Co.)	Jasper, TX	02/13/2001	NAFTA–4,548	Studs.
Matsushita Battery Industrial Corp. (Co.)	Columbus, GA	02/13/2001	NAFTA–4,549	Batteries.
Freightliner (Co.)	Mt. Holly, SC	02/14/2001	NAFTA–4,550	Trucks.

Subject firm	Location	Date received at Governor's office	Petition number	Articles produced
West Print Stevens (UNITE)	Roanoke Rapids, NC.	02/16/2001	NAFTA–4,551	Weaving for towels & washcloths.
Motorola (Wkrs)	Harvard, IL	02/13/2001	NAFTA–4,552	Cellular telephones.
United Technologies Automotives—Lear (Co.).	Zaneville, OH	02/16/2001	NAFTA–4,553	Headlight switches.
Haggar Clothing (Co.)	Edinburg, TX	02/15/2001	NAFTA–4,554	Men's pants, walk shorts & coats.
Brown Wooten Mills (Wkrs)	Mt. Airy, NC	02/15/2001	NAFTA–4,555	Socks & tights.
Equistar Fort Arthur (PLU)	Fort Arthur, TX	02/14/2001	NAFTA–4,556	Polyethlene plastics.
M and S Sewing (Wkrs)	Van Nuys, CA	02/14/2001	NAFTA–4,557	Blouse & uniform wear.
Modus Media International (Wkrs)	Fremont, CA	02/14/2001	NAFTA–4,558	Telecommunication.
Avery Dennison (Wkrs)	Quakertown, PA	02/14/2001	NAFTA–4,559	Pressure sensitive materials.
Erie Forge and Steel (Wkrs)	Erie, PA	02/12/2001	NAFTA–4,560	Steel.
Dearborn Brass—Moen (GMPPA)	Tyler, TX	02/13/2001	NAFTA–4,561	Metal traps.
Quadion Company (USWA)	Mason City, IA	02/13/2001	NAFTA–4,562	Rubber power brake.
HPM Corporation (Wkrs)	Mt. Gilead, OH	02/16/2001	NAFTA–4,563	Injection molding machines.
Deltrol Corporation (IAM)	Milwaukee, WI	02/16/2001	NAFTA–4,564	Busings, clamps, bar stock, castings.
Cummins (Co.)	Charleston, SC	02/16/2001	NAFTA–4,565	Cylinder heads.
Allison Manufacturing (Co.)	Albermarle, NC	02/15/2001	NAFTA–4,566	Children's apparel.
Crown Pacific Limited Partnership (Wkrs)	Bonners Ferry, IL	01/19/2001	NAFTA–4,567	Lumber.
Ansell Golden Needles-Ansell Healthcare (Co.).	Wilkesboro, NC	02/20/2001	NAFTA–4,568	Glove.
Blount (Co.)	Prentice, WI	02/22/2001	NAFTA–4,569	Prentice hydraulic log loaders.
Amphenol Corporation (IAMAW)	Sidney, NY	02/20/2001	NAFTA–4,570	Connectors.
PerkinElmer Optoelectronics (UAW)	St. Louis, MO	02/22/2001	NAFTA–4,571	Pellets, silicon wafer & CIRD Sensors.
Paper Converting Machine (PACE)	Green Bay, WI	02/23/2001	NAFTA–4,572	Paper rolls, die cutters.
Medley Company Cedar (Co.)	Pierce, ID	02/22/2001	NAFTA–4,573	Split rail fencing.
Genicom Corporation (Wkrs)	Waynesboro, VA	02/23/2001	NAFTA–4,574	Warehousing, stockroom & repair.
Gorge Lumber (Co.)	Portland, OR	02/23/2001	NAFTA–4,575	Spruce pine fir boards.
Gettys (Co.)	Racine, WI	02/22/2001	NAFTA–4,576	Motor & assembly.
GST Steel (USWA)	Kansas City, MO	02/21/2001	NAFTA–4,577	Steel rods & steel grinding balls.
Sample Service (Wkrs)	New York, NY	02/20/2001	NAFTA–4,578	Books, sample cards, bindery.
Axiohm (IAMAW)	Ithaca, NY	02/20/2001	NAFTA–4,579	Receipt printers
Corning Cable Systems (Co.)	Pensacola, FL	02/15/2001	NAFTA–4,580	Cable systems.
Eagle Knitting Mills (Co.)	Shawan, WI	02/19/2001	NAFTA–4,581	Apparel.
Pangborn Corporation (UAW)	Hagerstown, MD	02/13/2001	NAFTA–4,582	Blast cleaning machinery.
Munro and Company (Co.)	Monett, MO	02/23/2001	NAFTA–4,583	Sandals & shoes.
International Paper (Co.)	Milford, ME	02/15/2001	NAFTA–4,584	Studs.
Presto Products (Wkrs)	Alamogordo, NM	01/22/2001	NAFTA–4,585	Aluminum pots & pans.
O–Z Gedney (Co.)	Pittston, PA	02/21/2001	NAFTA–4,586	Electrical fittings .
Thompson River Lumber (Wkrs)	Thompson Falls, MT.	02/22/2001	NAFTA–4,587	Dimension lumber & lumber.
Capitol Manufacturing (Co.)	Fayetteville, NC	02/22/2001	NAFTA–4,588	Wooden picture frame moulding.
Puget Plastics (Co.)	Tualatin, OR	02/24/2001	NAFTA–4,589	Plastic injection molded parts.
Thermal Corporation (Wkrs)	Selmer, TN	02/21/2001	NAFTA–4,590	Steel hammer handles.

[FR Doc. 01–6966 Filed 3–20–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–66; Application No. D–10706]

Grant of Individual Exemption for Allfirst Bank (Allfirst)

AGENCY: Pension and Welfare Benefits Administration, Department of Labor (the Department).

ACTION: Notice of technical correction.

On December 21, 2000, the Department published in the **Federal Register** at 65 FR 80461 a notice of individual exemption for Allfirst, which permits, as of November 13, 1998, the receipt of fees by Allfirst from the ARK Funds, open-end investment companies registered under the Investment Company Act of 1940, for acting as an investment adviser for such Funds, as well as for providing secondary services to the ARK Funds, in connection with the investment in shares of the ARK Funds by employee benefit plans for which Allfirst serves as a fiduciary.

Under the heading "Written Comments" (65 FR at 80463), the Department addressed the applicant's comment regarding a typographical error in Section I(l). However, the requested correction was inadvertently omitted from the published final exemption. In the final exemption, the last sentence in subparagraph (2) of Section I(l) should cross-reference paragraph (i) instead of (j), while the very last sentence in Section I(l) should cross-reference paragraph (j) instead of (i). Thus, beginning from Section I(l)(2) (65 FR at 80462, center column), Section I(l) should read as follows:

(l)(2) For any Client Plan under this exemption, an addition of a Secondary Service (as defined in Section III(i) below) provided by Allfirst to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the ARK Funds to Allfirst for any Secondary Service that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Allfirst for such fee over an existing rate for such Secondary Service that had been authorized by the Second Fiduciary of a Client Plan in accordance with paragraph (i) above;

Allfirst will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee

increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and that explains the nature and amount of the additional service for which a fee is charged or of the increase in fees) to the Second Fiduciary of the Client Plan. Such notice shall be accompanied by a Termination Form with instructions as described in paragraph (j) above.

Accordingly, the Department hereby corrects such error.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 16th day of March, 2001.

Ivan L. Strasfeld,

Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration.

[FR Doc. 01–7046 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10942, et al.]

Proposed Exemptions; Bank of America, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. __, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Bank of America (BofA), Located in Bethesda, Maryland

[Application No. D–10942]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32,836, 32,847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the proposed granting to BofA by the Westbrook Real Estate Fund IV, L.P. (LP), a Delaware Limited Partnership, of a first, exclusive, and prior security interest in the capital commitments (Capital Commitments), reserve amounts (Reserve Amounts) and capital contributions (Capital Contributions), whether now owned or after-acquired, of certain employee benefit plans (Plans) investing in the LP; (2) the proposed collateral assignment and pledge by the LP to BofA of its security interest in each Plan's limited partnership interest, whether now owned or after-acquired; (3) the proposed granting by the LP of a first, exclusive, and prior security interest in a borrower collateral account to which all Capital Contributions will be deposited when paid (Borrower Collateral Account); (4) the proposed granting to BofA by Westbrook Real Estate Partners Management IV, L.L.C., a Delaware limited liability company and the general partner of the LP (the General Partner), of its right to make calls for cash contributions (Drawdowns) under the Amended and Restated Agreement of Limited Partnership of Westbrook Real Estate Fund IV, L.P., dated as of September 15, 2000 (Agreement), where BofA is the representative of certain lenders (the Lenders) that will fund a so-called "credit facility" (Credit Facility) providing credit to the LP, and the Lenders are parties in interest with respect to the Plans; and (5) the execution of a partner agreement and estoppel (Estoppel) under which the Plans agree to honor the Drawdowns; provided that (i) the proposed grants, assignments, and Estoppels are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (ii) the decisions on behalf of each Plan to invest in the LP and to execute such Estoppels in favor of BofA, for the benefit of each Lender, are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BofA; (iii) with respect to Plans that may invest in the LP in the future, such Plans will have assets of not less than $100 million [1] and not more than 5% of the

[1] In the case of multiple plans maintained by a single employer or a single group of employers treated as a single employer under Sections 414(b), 414(c), 414(m), and 414(o) of the Code, the assets of which are invested on a commingled basis (e.g., Continued

assets of such Plan will be invested in the LP; and (iv) the General Partner is unrelated to any Plan and any Lender.

Summary of Facts and Representations

1. The LP was formed by the General Partner (as sponsor and sole general partner) with the intent of seeking capital commitments from a limited number of prospective investors who would become partners (Limited Partner) of the LP. There are thirteen current and prospective Limited Partners having, in the aggregate, irrevocable, unconditional capital commitments of approximately $600 million.

2. The LP will target investments in a broad range of real-estate related assets, portfolios, and companies where the General Partner believes superior risk-adjusted returns are attainable. The LP generally will seek compounded annual returns on its investments in excess of 18%, a portion of which is expected to be comprised of current income.

3. Proceeds from investments may be reinvested to the extent they do not exceed the aggregate Capital Contributions with respect to such investment. To the extent they are not reinvested, net proceeds will be distributed to the Partners on at least a quarterly basis. Under the terms of the Agreement, the LP is expected to dissolve in the year 2008.

4. The Agreement requires each Limited Partner to execute a subscription agreement that obligates the Limited Partner to make contributions of capital up to a specified maximum. The Agreement requires Limited Partners to make Capital Contributions to fulfill this obligation upon receipt of notice from the General Partner. Under the Agreement, the General Partner may make Drawdowns up to the total amount of a Limited Partner's Capital Commitment upon 10 business days' notice. The Limited Partners' Capital Commitments are structured as unconditional, binding commitments to contribute equity when Drawdowns are made by the General Partner. In the event of a default by a Limited Partner, the LP may exercise any of a number of specific remedies.

The Limited Partners constituting over 90% of the equity interest and their investments in the LP are:

Name of partner	Capital commitment
Allstate Insurance Company	$15,000,000
The BellSouth Corporation Health Care Trust—Retirees	5,000,000
The BellSouth Corporation Representable Employees' Health Care Trust—Retirees	$10,000,000
The BellSouth Corporation RFA VEBA Trust	$10,000,000
The BellSouth Corporation RFA VEBA Trust for Non-Representable Employees	$3.000,000
BellSouth Master Pension Trust	$92,000,000
IBM Personal Pension Plan Trust	$50,000,000
NC/TREIT	$100,000,000
New York State Common Retirement Fund	$100,000,000
Teachers' Retirement System of Louisiana	$100,000,000
State of Wisconsin Investment Board	$100,000,000
Bankers Trust Company, as Trustee for the Walt Disney Company Retirement Plan Master Trust	$10,000,000
Westbrook Real Estate Partners Management IV, L.L.C.	$9,060,914

through a master trust), this $100 million threshold will be applied to the aggregate assets of all such plans.

5. The applicant states that the LP will incur indebtedness in connection with many of its investments. In addition to mortgage indebtedness, the LP will incur short-term indebtedness for the acquisition of particular investments. This indebtedness will take the form of the Credit Facility secured by, among other things, a pledge and assignment of each Limited Partner's Capital Commitment. This type of facility will allow the LP to consummate investments quickly without having to finalize the debt/equity structure for an investment or having to arrange for interim or permanent financing prior to making an investment, and will have additional advantages to the Limited Partners and the LP. Under the Agreement, the General Partner may encumber each Limited Partner's Capital Commitments, Reserve Amounts, and Capital Contributions, including the right to make Drawdowns, to one or more financial institutions as security for the Credit Facility. Each of the Limited Partners has appointed the General Partner as its attorney-in-fact to execute all documents and instruments of transfer necessary to implement the provisions of the Agreement. In connection with this Credit Facility, each of the Limited Partners is required to execute documents customarily required in secured financings, including an agreement to honor Drawdowns unconditionally.

6. BofA will become agent for a group of Lenders providing a $450 million revolving Credit Facility to the LP. BofA will also be a participating Lender. Some of the Lenders may be parties in interest with respect to some of the Plans that invest in the LP by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to such Plans for assets other than the Plans' interests in the LP. BofA is requesting an exemption to permit the Plans to enter into security agreements with BofA, as the representative of the Lenders, whereby such Plans' Capital Commitments, Reserve Amounts, and Capital Contributions to the LP, as well as the Plans' limited partnership interests, will be used as collateral for loans made by the Credit Facility to the LP, when such loans are funded by Lenders who are parties in interest to one or more of the Plans.

The Credit Facility will be used to provide immediate funds for real estate acquisitions made by the LP, as well as for the payment of LP expenses. Repayments will be secured generally by the LP from the Limited Partners' Capital Contributions, Reserve Amounts, Drawdowns on the Limited Partners' Capital Commitments, and the Limited Partners' limited partnership interests. The stated maturity date of the Credit Facility is August 15, 2003. The LP can use its credit under the Credit Facility by direct or indirect borrowings or by requesting that letters of credit be issued. All Lenders will participate on a pro rata basis with respect to all cash loans and letters of credit up to the maximum of the Lenders' respective commitments. All such loans and letters of credit will be issued to or for the benefit of the LP or an entity in which the LP owns a direct or indirect interest (a Qualified Borrower), and not to any individual Limited Partner. All payments of principal and interest made by the LP or a Qualified Borrower will be allocated pro rata among all Lenders.

7. The Credit Facility will be a recourse obligation of the Partnership. To secure the Credit Facility, the LP will grant to BofA, for the benefit of each Lender, a first, exclusive, and prior: (1) security interest and lien in and to the Capital Commitments, Reserve Amounts, and Capital Contributions of the Limited Partners; (2) collateral assignment and pledge of the LP's security interest in each Limited Partner's limited partnership interest; and (3) security interest and lien in the Borrower Collateral Account. Additionally, to secure the Credit Facility, the General Partner shall: (1) Pledge, through a partner agreement and estoppel, its partnership interest to BofA

for the benefit of each Lender; and (2) grant to BofA, for the benefit of each Lender, its right to make Drawdowns of the Capital Commitments and Reserve Amounts, and all other rights, titles, powers and privileges related to, appurtenant to or arising out of General Partner's right under the Agreement to require or demand that Limited Partners make Capital Contributions and fund Drawdowns.

8. It is contemplated each Limited Partner will execute an agreement pursuant to which it acknowledges that the LP and the General Partner have pledged and assigned to BofA, for the benefit of each Lender, all of their rights under the Agreement relating to Capital Commitments, Reserve Amounts, Drawdown notices, and Capital Contributions. Such agreement will include an acknowledgment and covenant by the Limited Partner that, if an event of default exists, such Limited Partner will, consistent with its obligations under the Partnership Agreement, honor any Drawdown made by BofA in accordance with the Agreement. Such an agreement and covenant by a Limited Partner effectively limits the assertion of any defense which the Partner might have against the LP or the General Partner with respect to the funding of any Drawdown made by BofA.

9. The applicant represents that at the present time the following Plans are Partners in the LP:

(a) The BellSouth Master Pension Trust (BellSouth Pension Trust) holds the assets of two defined benefit plans (BellSouth Pension Plans) which own interests in the LP. The BellSouth Pension Trust has made a Capital Commitment of approximately $92 million to the LP. The applicant states that some of the Lenders may be parties in interest with respect to some of the BellSouth Pension Plans in the BellSouth Pension Trust by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to such BellSouth Pension Plans with respect to BellSouth Pension Trust assets other than their limited partnership interests in the LP. Thus, BofA states that there is an immediate need for the BellSouth Pension Trust to enter into the Estoppel under the terms and conditions described herein. The total number of participants in the two BellSouth Pension Plans is approximately 137,703, and the approximate fair market value of the total assets of the BellSouth Pension Plans held in the BellSouth Pension Trust as of December 31, 1998 is $17.9 billion.

The applicant represents that the fiduciary generally responsible for investment decisions in real estate matters on behalf of both BellSouth Pension Plans is the BellSouth Corporation Treasurer. The fiduciary responsible for reviewing and authorizing the investment in the LP is the BellSouth Corporation Treasurer.

(b) The BellSouth Corporation Representable Employees Health Care Trust—Retirees (BellSouth Health Care Trust) holds the assets of two welfare benefit plans (BellSouth Health Care Plans) which own interests in the LP. The BellSouth Health Care Trust has made a Capital Commitment of approximately $10 million to the LP. The applicant states that some of the Lenders may be parties in interest with respect to some of the BellSouth Health Care Plans in the BellSouth Health Care Trust by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to such BellSouth Health Care Plans with respect to BellSouth Health Care Trust assets other than their limited partnership interests in the LP. Thus, BofA states that there is an immediate need for the BellSouth Health Care Trust to enter into the Estoppel under the terms and conditions described herein. The total number of participants in the two BellSouth Health Care Plans is approximately 130,795. The approximate fair market value of the total assets of the BellSouth Health Care Plans held in the BellSouth Health Care Trust as of December 31, 1998 was $1.2 billion. The approximate fair market value of the assets in the BellSouth Health Care Plans was $1.8 billion.

The applicant represents that the fiduciary generally responsible for investment decisions in real estate matters on behalf of both BellSouth Health Care Plans is the BellSouth Corporation Treasurer. The fiduciary responsible for reviewing and authorizing the investment in the LP is the BellSouth Corporation Treasurer.

(c) The IBM Personal Pension Plan Trust (the IBM Trust) holds the assets of one defined benefit plan (the IBM Plan) which owns interests in the LP. The IBM Trust has made a Capital Commitment of $50 million to the LP. The applicant states that some of the Lenders may be parties in interest with respect to the IBM Plan by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to the IBM Plan with respect to the IBM Trust assets other than its limited partnership interests in the LP. Thus, BofA states that there is an immediate need for the IBM Trust to enter into the Estoppel under the terms and conditions described herein. The total number of participants in the IBM Plan is approximately 333,295, and the approximate fair market value of the total assets of the IBM Plan as of December 31, 1999 was $45.6 billion.

The applicant represents that the fiduciary generally responsible for investment decisions in real estate matters on behalf of the IBM Plan is the Retirement Plans Committee, IBM Corporation. The fiduciary responsible for reviewing and authorizing the investment in the LP is the Retirement Plan Committee, IBM Corporation.

(d) The Walt Disney Company Retirement Plan Master Trust (Walt Disney Master Trust) holds the assets of five defined benefit plans (Walt Disney Pension Plans) which own interests in the LP. The Walt Disney Master Trust has made a Capital Commitment of $10 million to the LP. The applicant states that some of the Lenders may be parties in interest with respect to some of the Walt Disney Pension Plans in the Walt Disney Master Trust by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to such Walt Disney Pension Plans with respect to Walt Disney Master Trust assets other than their limited partnership interests in the LP. Thus, BofA states that there is an immediate need for the Walt Disney Master Trust to enter into the Estoppel under the terms and conditions described herein. The total number of participants in the five Walt Disney Pension Plans is approximately 67,188 and the approximate fair market value of the total assets of the Walt Disney Pension Plans held in the Walt Disney Master Trust as of December 31, 1998 was $1.37 billion.

The applicant represents that the fiduciary generally responsible for investment decisions in real estate matters on behalf of the Walt Disney Pension Plans is the Retirement Plans Committee, Walt Disney Company. The fiduciary responsible for reviewing and authorizing the investment in the LP is the Retirement Plans Committee, Walt Disney Company.

10. The applicant represents that the Plans in the trusts (the Trusts) listed in Rep. 9 are currently the only employee benefit plans subject to the Act that are Limited Partners of the LP and will be included in this exemption. However, the applicant states that it is possible that one or more other Plans will become Limited Partners of the LP in the future. Thus, the applicant requests relief for any such Plan under this proposed exemption, provided the Plan meets the standards and conditions set forth herein. In this regard, such Plan must be represented by an independent fiduciary and the General Partner must

receive from the Plan one of the following:

(1) a representation letter from the applicable fiduciary with respect to such Plan substantially identical to the representation letter submitted by the fiduciaries of the other Plans, in which case this proposed exemption, if granted, will apply to the investments made by such Plan if the conditions required herein are met; or

(2) evidence that such Plan is eligible for a class exemption or has obtained an individual exemption from the Department covering the potential prohibited transactions which are the subject of this proposed exemption.

11. BofA represents that the LP will obtain an opinion of counsel that the LP constitutes an "operating company" under the Department's plan asset regulations (see 29 C.F.R. 2510.3—101(c)).[2]

12. BofA represents that the security and Estoppel constitutes a form of credit security which is customary among financing arrangements for real estate limited partnerships or limited liability companies, wherein the financing institutions do not obtain security interests in the real property assets of the partnership or limited liability companies. BofA also represents that the obligatory execution of the Estoppel by the Limited Partners for the benefit of the Lenders was fully disclosed in the LP's Private Placement Memorandum as a requisite condition of investment in the LP during the private placement of the limited partnership interests. BofA represents that the only direct relationship between any of the Limited Partners and any of the Lenders is the execution of the Estoppel. All other aspects of the transaction, including the negotiation of all terms of the Credit Facility, are exclusively between the Lenders and the LP. BofA represents that the proposed execution of the Estoppel will not affect the abilities of the Trusts to withdraw from investment and participation in the LP. The only Plan assets to be affected by the proposed transactions are any funds which must be contributed to the LP in accordance with requirements under the Agreement to make Drawdowns to honor a Limited Partner's Capital Commitments.

13. BofA represents that neither it nor any Lender acts or has acted in any fiduciary capacity with respect to the Plans' investment in the LP and that BofA is independent of and unrelated to the fiduciaries (the Trust Fiduciaries) responsible for authorizing and overseeing the Trusts' investments in the LP. The Trust Fiduciaries represent independently that their authorization of the Trusts' investments in the LP was free of any influence, authority or control by the Lenders. The Trust Fiduciaries represent that the Trusts' investments in and Capital Commitments to the LP were made with the knowledge that each Limited Partner would be required subsequently to grant a security interest in Drawdowns and Capital Commitments to the Lenders and to honor unconditionally Drawdowns made on behalf of the Lenders without recourse to any defenses against the General Partner. The Trust Fiduciaries individually represent that they are independent of and unrelated to BofA and the Lenders and that the investment by the Trusts for which the Trust Fiduciaries are responsible continues to constitute a favorable investment for the Plans participating in that Trust and that the execution of the Estoppel is in the best interests and protective of the participants and beneficiaries of such Plans. In the event another Plan proposes to become a Limited Partner, the applicant represents that it will require similar representations to be made by such Plan's independent fiduciary. Any Plan proposing to become a Limited Partner in the future and needing to avail itself of the exemption proposed herein will have assets of not less than $100 million,[3] and not more than 5% of the assets of such Plan will be invested in the LP.

14. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) the Plans' investments in the LP were authorized and are overseen by the Trust Fiduciaries, which are independent of the Lenders, and other Plan investments in the LP from other employee benefit plans subject to the Act will be authorized and monitored by independent Plan fiduciaries; (2) none of the Lenders have any influence, authority or control with respect to the Trusts' investment in the LP or the Trusts' execution of the Estoppel; (3) the Trust Fiduciaries invested in the LP on behalf of the Plans with the knowledge that the Estoppel is required of all Limited Partners investing in the LP, and all other Plan fiduciaries that invest their Plan's assets in the LP will be treated the same as other Limited Partners are currently treated with regard to the Estoppel; (4) any Plan which may invest in the LP in the future, which needs to avail itself of the exemption proposed herein, will have assets of not less than $100 million,[4] and not more than 5% of the assets of any such Plan will be invested in the LP, and (5) the General Partner is unrelated to any Plan and any Lender.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Independent Fiduciary Services, Inc. (IFS)

Located in Washington, DC

[Exemption Application Nos: D–10960 and D–10971]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[5]

I. General Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D), shall not apply, effective from November 3, 2000, until November 3, 2005, to a transaction between a party in interest with respect to the Plumbers and Pipe Fitters National Pension Fund (the Fund) and an account (the Diplomat Account) that holds certain assets of the Fund managed by IFS while serving as independent named fiduciary (the Named Fiduciary) in connection with Prohibited Transaction Exemption 99–46 (PTE 99–46)[6]; provided that the following conditions are satisfied:

(a) IFS, as Named Fiduciary of the Diplomat Account, is an investment

[2] The Department notes that the term "operating company" as used in the Department's plan asset regulation cited above includes an entity that is considered a "real estate operating company" as described therein (see 29 CFR 2510.3–101(e)). However, the Department expresses no opinion in this proposed exemption regarding whether the LP would be considered either an operating company or a real estate operating company under such regulations. In this regard, the Department notes that it is providing no relief for either internal transactions involving the operation of the LP or for transactions involving third parties other than the specific relief proposed herein. In addition, the Department encourages potential Plan investors and their independent fiduciaries to carefully examine all aspects of the LP's proposed real estate investment program in order to determine whether the requirements of the Department's regulations will be met.

[3] See supra note 1.

[4] Id.

[5] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

[6] 64 FR 61944, November 15, 1999.

adviser registered under the Investment Advisers Act of 1940, as amended, (the Advisers Act) that has, as of the last day of its most recent fiscal year, shareholders' equity or partners' equity, as defined in Section III(h), below, in excess of $750,000;

(b) At the time of the transaction, as defined in Section III(i), below, the party in interest or its affiliate, as defined in Section III(a), below, does not have, and during the immediately preceding one (1) year has not exercised, the authority to—

(1) appoint or terminate the Named Fiduciary as a manager of the Diplomat Account, or

(2) negotiate the terms of the management agreement with the Named Fiduciary (including renewals or modifications thereof) on behalf of the Fund;

(c) The transaction is not described in—

(1) Prohibited Transaction Class Exemption 81–6 (PTCE 81–6)[7] (relating to securities lending arrangements);

(2) Prohibited Transaction Class Exemption 83–1 (PTCE 83–1)[8] (relating to acquisitions by plans of interests in mortgage pools), or

(3) Prohibited Transaction Class Exemption 82–87 (PTCE 82–87)[9] (relating to certain mortgage financing arrangements);

(d) The terms of the transaction are negotiated on behalf of the Diplomat Account under the authority and general direction of the Named Fiduciary, and either the Named Fiduciary, or (so long as the Named Fiduciary retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the Named Fiduciary, makes the decision on behalf of the Diplomat Account to enter into the transaction, provided that the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(e) The party in interest dealing with the Diplomat Account is neither the Named Fiduciary nor a person related to the Named Fiduciary, as defined in Section III(f), below;

(f) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the Named Fiduciary, the terms of the transaction are at least as favorable to the Diplomat Account as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither the Named Fiduciary nor any affiliate thereof, as defined in Section III(b), below, nor any owner, direct or indirect, of a 5 percent (5%) or more interest in the Named Fiduciary is a person who, within the ten (10) years immediately preceding the transaction, has been either convicted or released from imprisonment, whichever is later, as a result of:

(1) any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization;

(2) any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary:

(3) income tax evasion;

(4) any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or

(5) any other crimes described in section 411 of the Act.

For purposes of this Section I(g), a person shall be deemed to have been "convicted" from the date of the judgment of the trial court, regardless of whether the judgment remains under appeal.

II. Specific Exemption Involving Places of Public Accommodation.

If the exemption is granted, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective from November 3, 2000, until November 3, 2005, to the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation owned by the Diplomat Account managed by IFS, acting as the Named Fiduciary, to a party in interest with respect to the Fund, if the services, facilities, and incidental goods are furnished on a comparable basis to the general public.

III. Definitions

(a) For purposes of Section I(b), above, of this proposed exemption, an "affiliate" of a person means—

(1) any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, 5 percent (5%) or more partner, or employee (but only if the employer of such employee is the plan sponsor), and

(3) any director of the person or any employee of the person who is a highly compensated employee, as described in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility, or control regarding the custody, management, or disposition of plan assets. A named fiduciary (within the meaning of section 402(a)(2) of the Act) of a plan, and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of Section I(b) if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(b) For purposes of Section I(g), above, of this proposed exemption, an "affiliate" of a person means—

(1) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) any director of, relative of, or partner in, any such person,

(3) any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, or a 5 percent (5%) or more partner or owner, and

(4) any employee or officer of the person who—

(A) Is a highly compensated employee (as described in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent (10%) or more of the yearly wages of such person) or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management, or disposition of Fund assets.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "goods" includes all things which are movable or which are fixtures used by the Diplomat Account but does not include securities, commodities, commodities futures, money, documents, instruments, accounts, chattel paper, contract rights, and any other property, tangible or intangible, which, under the relevant facts and circumstances, is held primarily for investment.

[7] 46 FR 7527, January 23, 1981.

[8] 48 FR 895, January 7, 1983.

[9] 47 FR 21331, May 18, 1982.

(e) The term "party in interest" means a person described in section 3(14) of the Act and includes a "disqualified person," as defined in section 4975(e)(2) of the Code.

(f) The Named Fiduciary is "related" to a party in interest for purposes of Section I(e), above, of this proposed exemption, if the party in interest (or a person controlling, or controlled by, the party in interest) owns a 5 percent (5%) or more interest in the Named Fiduciary, or if the Named Fiduciary (or a person controlling, or controlled by, the Named Fiduciary) owns a 5 percent (5%) or more interest in the party in interest. For purposes of this definition:

(1) The term "interest" means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership; or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights, or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(g) The term "relative" means a relative as that term is defined in section 3(15) of the Act, or a brother, sister, or a spouse of a brother or sister.

(h) For purposes of Section I(a) of this proposed exemption, the term "shareholders' equity" or "partners' equity" means the equity shown in the most recent balance sheet prepared within the two (2) years immediately preceding a transaction undertaken pursuant to this proposed exemption, in accordance with generally accepted accounting principles.

(i) The "time" as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into during the period from November 3, 2000, until November 3, 2005, or if a renewal that requires the consent of the Named Fiduciary occurs during the period from November 3, 2000, until November 3, 2005, and the requirements of this proposed exemption are satisfied at the time the transaction is entered into or renewed, then the requirements will be deemed to continue to be satisfied thereafter with respect to the transaction. Nothing in this subsection shall be construed as exempting a transaction which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of this proposed exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this proposed exemption.

Temporary Nature of Exemption

The Department has determined that the relief provided to IFS by this proposed exemption will be temporary in nature. The exemption, if granted, will be effective for a period of five (5) years, beginning on November 3, 2000, and ending on November 3, 2005, so long as IFS retains full fiduciary responsibility with respect to the transactions which are the subject of this exemption. Accordingly, the relief provided by this proposed exemption will not be available upon expiration of such five-year period for any transactions (or renewal that requires the consent of IFS, acting as the Named Fiduciary) first entered into after November 3, 2005. Should IFS wish to extend, beyond the five-year period, the relief provided by this proposed exemption, it may submit another application for exemption.

Preamble

In October 1997, the Department received an exemption application (D–10514) from the Fund requesting relief from the prohibited transaction provisions of section 406(a) and (b) of the Act and 4975 of the Code. The Department published a notice of proposed exemption in the **Federal Register** on May 29, 1998.[10] The final exemption, Prohibited Transaction Exemption 99–46 (PTE 99–46), was published in the **Federal Register** on November 15, 1999.[11]

PTE 99–46 provides an exemption, effective October 9, 1997, for the transfer to the Fund by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO (the Union), a party in interest with respect to the Fund, of the Union's limited partnership interests in the Diplomat Properties, Limited Partnership (the Partnership), the sole asset of which is commonly known as the Diplomat Resort and Country Club (the Property), and the transfer to the Fund of the Union's stock in Diplomat Properties, Inc., the corporate general partner of the Partnership (the General Partner), provided certain conditions are satisfied.

In addition to the conditions contained in PTE 99–46, the Fund agreed by way of a Term Sheet (the Term Sheet), dated October 13, 1999, to several additional undertakings, including the appointment of Actuarial Sciences Associates, Inc. (ASA), to oversee the Fund's investment in the Partnership and the continuing development of the Property. Further, pursuant to the Term Sheet, the Board of Trustees of the Fund (the Trustees) agreed to a percentage limitation on the total Fund investment in the development of the Property. Effective November 8, 1999, the Trustees appointed ASA to serve as the Named Fiduciary of the Diplomat Account which holds the Fund's interest in the Partnership, the General Partner, and other Fund assets invested in or awaiting investment in the Property.

Pursuant to the provisions of the Term Sheet, ASA could be replaced by the Trustees only upon the concurrence of the Department or pursuant to a court order for cause. Accordingly, when ASA established a wholly-owned subsidiary, ASA Fiduciary Counselors, Inc. (ASA Counselors), to provide investment advisory services, ASA sought approval from the Trustees and the Department prior to assigning ASA Counselors the investment advisory services that ASA had previously performed. After ASA Counselors became a registered investment adviser, ASA assigned its responsibilities to ASA Counselors, with the consent of the Trustees of the Fund and the Department.

On March 15, 2000, the Department received an exemption application (D–10879) from ASA and ASA Counselors requesting relief from the prohibited transaction provisions of section 406(a) and (b) of the Act and 4975 of the Code. The Department published a notice of proposed exemption in the **Federal Register** on June 26, 2000.[12] The final exemption, Prohibited Transaction Exemption 2000–49 (PTE 2000–49), was published in the **Federal Register** on October 11, 2000.[13]

PTE 2000–49 permitted ASA, effective from November 8, 1999, to December 20, 1999, and thereafter ASA Counselors, while serving as the Named Fiduciary of the Diplomat Account, to engage on behalf of the Diplomat

[10] 63 FR 29453.

[11] 64 FR 61944.

[12] 65 FR 39435.

[13] 65 FR 60454.

Account in certain transactions with parties in interest with respect to the Fund. In the case of transactions involving places of public accommodation, the exemption permitted, effective November 8, 1999, the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation owned by the Diplomat Account that is managed by ASA or ASA Counselors, when acting as the Named Fiduciary, to parties in interest with respect to the Fund, if such services, facilities, and incidental goods are furnished on a comparable basis to the general public.

Subsequently, ASA Counselors resigned its appointment as Named Fiduciary with respect to the Fund and the Diplomat Account, effective as of November 3, 2000. Prior to that date, the Trustees entered into an agreement with IFS, dated September 12, 2000, the terms of which were reviewed and found acceptable by the Department prior to execution. Pursuant to the terms of such agreement IFS was appointed, effective November 3, 2000, as successor Named Fiduciary of the Fund with respect to the Diplomat Account.

On December 21, 2000, the Department received an exemption application (D–10960) in which IFS requested relief from the prohibited transaction provisions of section 406(a) and (b) of the Act and section 4975 of the Code which is identical to that provided to ASA and ASA Counselors, pursuant to PTE 2000–49.

On February 23, 2001, the Department received another exemption application (D–10971) from IFS, acting as Named Fiduciary on behalf of the Fund. IFS requested a modification to a provision of the Term Sheet which the Trustees had agreed to in connection with PTE 99–46. The relevant provision provides that:

> [t]he Trustees will instruct the custodian of the Fund to transfer to the Diplomat Account any additional amounts requested by ASA for the operations or expenses of the Diplomat Account or the Partnership, so long as the total amount of the Fund assets at risk (*i.e.*, the Fund's investment in the Partnership plus any recourse debt in excess of the value of the assets in the Partnership) does not exceed 13 percent of the Fund assets at the time of the transfer.

The requested change to PTE 99–46 would modify the 13 percent allocation limit (the 13% Limitation). Because both applications were filed by IFS and involve the assets of the Fund in the Diplomat Account, the Department has determined to consider the relief requested in both applications at the same time.

Summary of Facts and Representations

1. The Fund is a Taft-Hartley multi-employer defined benefit pension fund. The Fund has approximately 123,000 participants and beneficiaries, as of December 28, 2000. As of December 31, 2000, and February 17, 2001, the approximate aggregate fair market value of the total assets of the Fund was $4.3 billion and $4.2 billion, respectively. The assets of the Fund include interests in the Partnership and its corporate General Partner which the Fund acquired pursuant to PTE 99–46.

The sole asset of the Partnership consists of the Property located in Hollywood and Hallandale, Florida. The Property, among other things, consists of several improved parcels, including an oceanfront hotel complex, a convention center, a golf course, a country club, a marina, a parcel of oceanfront real estate zoned for development as condominiums units, another parcel currently unentitled and being used for construction trailers, and certain other related assets.

The Fund currently owns 100 percent (100%) of the equity interest in the Partnership. Such interest in the Partnership is not a publicly offered security. Pursuant to regulations issued by the Department, 29 CFR § 2510.3–101 (the Plan Assets Regulation), when a plan acquires an equity interest in an entity, which interest is not a publicly offered security or a security issued by an investment company registered under the Investment Company Act of 1940, the underlying assets of the entity will be deemed to include plan assets, unless certain exceptions apply. However, when 100 percent (100%) of the outstanding equity interests in such entity are owned by a plan or a related group of plans, such exceptions do not apply (see 29 CFR § 2510.3–101(h)(3) of the Plan Asset Regulation). Accordingly, in the situation described herein the applicant represents that the Property, which is the sole asset of the Partnership, would be deemed to be an asset of the Fund; and any transaction involving the Property is treated as a transaction involving Fund assets for purposes of the Act.

2. The current requests for relief from the prohibited transaction provisions of the Act were filed by IFS. IFS is a Delaware corporation which provides a broad range of benefit consulting services to both public and private employee benefit plans with assets ranging from several million to several billion dollars. IFS is a registered investment adviser under the Advisers Act. Among the individuals employed by IFS who are primarily responsible for the development of the Property (the Project) are Samuel W. Halpern, Esq. (Mr. Halpern) and Francis X. Lilly, Esq. (Mr. Lilly), who are the sole shareholders of IFS. It is represented that Mr. Lilly has broad expertise in a wide range of subjects, including developing investment policy and analysis and regulation of investment activity by pension funds. Mr. Halpern is experienced in a wide variety of issues related to pension plans, including the financial and fiduciary aspects of pension fund investing. It is represented that the fee charged by IFS is paid by the Fund.

3. IFS has requested a general exemption, rather than an exemption involving a specific transaction with a particular party in interest. In this regard, it is represented that due to the size and complexity of the Fund, the identities of the parties in interest which may be involved in the subject transactions were not known at the time the application was filed. With approximately $4.2 billion in assets, it is represented that the Fund has relationships with a variety of financial institutions and a multitude of other service providers who are now or may become parties in interest or disqualified persons, as those terms are defined respectively, in section 3(14) of the Act or 4975(e)(2) of the Code. Further, because the Project involves a complex real estate development, including a variety of commercial spaces and public accommodation, relief from the prohibited transaction provisions of the Act has been requested for transactions with parties in interest that are expected to occur in the ordinary course of operation.

4. The requested exemption would permit IFS for a period of five (5) years, beginning November 3, 2000, and ending November 3, 2005, while serving as the Named Fiduciary of the Diplomat Account, to engage on behalf of the Diplomat Account in certain transactions with parties in interest with respect to the Fund, without violating section 406(a)(1)(A) through (D) of the Act. Further, in the case of transactions involving places of public accommodation, the requested exemption would permit, effective November 3, 2000, through November 3, 2005, the furnishing of services, facilities, and any goods incidental thereto by a place of public accommodation owned by the Diplomat Account that is managed by the Named Fiduciary, to a party in interest with respect to the Fund.

With respect to the furnishing of services, facilities, and any goods incidental thereto by places of public

accommodation owned by the Diplomat Account, IFS maintains that, absent this exemption, it would not be feasible to monitor routine transactions in the operation of the hotel complex, the golf course, and the other components of the Property. In this regard, given the large number of participants and beneficiaries of the Fund, as well as the large number of contributing employers and service providers to the Fund, and their affiliates, it is not possible to prevent party in interest transactions from occurring. Accordingly, if granted, this exemption will permit the furnishing of services, facilities, and any goods incidental thereto by places of public accommodation owned by the Diplomat Account, and managed by IFS, to parties in interest with respect to the Fund, if such services, facilities and incidental goods are furnished on a comparable basis to the general public.

With respect to transactions with parties in interest, other than those involving places of public accommodation, the requested exemption, if granted, would provide relief to IFS, while serving as Named Fiduciary of the Diplomat Account, which is similar to the relief provided to qualified professional asset managers (QPAMs or a QPAM) under Prohibited Transaction Class Exemption 84–14 (PTCE 84–14).[14] In general, PTCE 84–14 permits various parties in interest with respect to an employee benefit plan to engage, under certain conditions, in transactions involving plan assets, if the assets are managed by persons defined under the exemption as QPAMs.

It is represented that until December 14, 2000, the Fund engaged CS Capital Management Inc. (CSC), as a QPAM to manage the Project.[15] Subsequently, pursuant to its authority as Named Fiduciary, IFS removed CSC as the QPAM and appointed LaSalle Investment Management, Inc. (LaSalle) as replacement QPAM, effective December 14, 2000. It is represented that LaSalle meets the definition of a QPAM for all purposes under PTCE 84–14.[16]

Although, in many cases the Fund will be able to rely on the ability of LaSalle to qualify as a QPAM under PTCE 84–14, IFS believes that there may be instances in which it will become necessary or desirable for IFS to act more directly with respect to a transaction (if, for example, the transaction is with an entity in some way related to LaSalle or if IFS determines it is prudent to retain discretion with respect to certain significant transactions). Accordingly, IFS has requested relief under conditions which are similar to those required in Part I of PTCE 84–14.[17]

In this regard, Part I of PTCE 84–14 provides relief from the restrictions of section 406(a)(1)(A)-(D) of the Act and 4975(c)(1)(A)-(D) of the Code for transactions between a party in interest with respect to an employee benefit plan and an investment fund in which such plan has an interest which is managed by a QPAM; provided certain conditions are met. One such condition (the Diverse Clientele Test), as set forth in Part I(e) of PTCE 84–14, requires that:

> The transaction is not entered into with a party in interest with respect to any plan whose assets managed by the QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof * * *) or by the same employee organization, and managed by the QPAM, represent more than 20 percent of the total client assets managed by the QPAM at the time of the transaction.

In this regard, IFS represents that due to the nature and scope of its responsibilities as the Named Fiduciary, the assets of the Fund held by the Diplomat Account managed by IFS exceed 20 percent (20%) of the total client assets that it has under management. Accordingly, IFS represents that it is unable to satisfy the Diverse Clientele Test found in Part I(e) of PTCE 84–14.

Additionally, pursuant to Part V(a)(4) of PTCE 84–14, in order for an investment adviser registered under the Advisers Act to qualify as a QPAM, as of the last day of its most recent fiscal year, total client assets under its management and control must exceed $50 million (the Managed Assets Test). Although IFS serves as an investment advisor or (on rare occasions) investment manager with respect to over $8 billion of assets, it is represented that the total client assets under its direct management and control did not exceed $50 million, as of the last day of its most recent fiscal year.[18] Accordingly, IFS represents that it is unable to satisfy the requirements of the Managed Assets Test, as set forth in Part V(a)(4) of PTCE 84–14.

5. Notwithstanding its inability to meet the requirements of the Managed Assets Test or to satisfy the Diverse Clientele Test, IFS maintains that the requested administrative exemption should be granted where it can be demonstrated that IFS, like a QPAM, acts in the best interest of plan participants, unencumbered by a relationship with parties in interest. With regard to independence, it is represented that IFS had no relationship with the Fund or with the Trustees, prior to the execution of the agreement appointing IFS as Named Fiduciary. In the opinion of IFS, the Department's involvement in the appointment process ensured that when selected to serve as the Named Fiduciary of the Diplomat Account, IFS was independent and qualified to act in that capacity. In addition, it is represented that the reporting obligations of IFS to the Department and the restrictions on the removal of IFS, as the Named Fiduciary under PTE 99–46, by the Trustees of the Fund ensures the continued independence of IFS.

6. It is represented that the proposed exemption is in the best interest of the Fund. In this regard, if granted, the proposed exemption would facilitate the management of the Project in the manner most efficient and beneficial to the participants and beneficiaries that have interests in the Fund. As discussed above, the proposed exemption would facilitate routine operations of the Project. In the absence of the exemption, it would be burdensome to examine each transaction to determine whether such transaction might involve a party in interest.

7. It is represented that without the exemption, the Diplomat Account could be prevented from entering into beneficial financial transactions with parties in interest that would enhance the return to the Fund. As indicated, above, the Fund has party in interest

[14] 49 FR 9494 (March 13, 1984), *as corrected*, 50 FR 41430 (October 10, 1985).

[15] IFS represents that CSC may not have qualified for the general exemption under Part I of PTCE 84–14, because the assets of the Fund managed by CSC may have represented more than 20 percent (20%) of the total client assets managed by CSC. The Department is offering no view, herein, as to whether CSC has met the definition of a QPAM, as set forth in Part V(a) of PTCE 84–14, and has satisfied all of the conditions, as set forth in Part I of PTCE 84–14, nor is the Department, herein, providing CSC any relief for transactions with parties in interest with respect to the Fund while the assets of the Fund were under the management of CSC.

[16] The Department is offering no view, herein, as to whether LaSalle has met the definition of a QPAM, as set forth in Part V(a) of PTCE 84–14, and has satisfied all of the conditions, as set forth in Part I of PTCE 84–14, nor is the Department, herein, providing LaSalle any relief for transactions with parties in interest with respect to the Fund while assets of the Fund are under the management of LaSalle.

[17] The Department, herein, is not proposing an exemption for the type of transactions which are described in Part II and Part III of PTCE 84–14.

[18] Although IFS represents that it is a fiduciary with respect to most of these assets by virtue of providing investment advice for a fee, IFS does not generally function as an investment manager, within the meaning of section 3(38) of the Act, with respect to those assets.

relationships with a variety of financial institutions and other service providers. In this regard, it is represented that without the requested exemption, the pool of possible lenders and equity investors would be unduly restricted, because any financial institution that has pre-existing relationships with the Fund would be excluded from dealing with the Diplomat Account.

8. IFS maintains that in granting PTCE 84–14, the Department has already determined that the requested exemption is administratively feasible. Accordingly, in the opinion of IFS, the requested exemption would not impose any administrative burdens on the Department which are not already imposed by PTCE 84–14 and by PTE 2000–49.

9. IFS maintains that the proposed exemption would be protective of the rights of participants and beneficiaries of the Fund because of the on-going oversight of both the Trustees and the Department. In this regard, it is represented that under the terms of an agreement with the Trustees, IFS has a continuing responsibility to furnish the Trustees and the Department with monthly written reports concerning the operations, assets, receipts, and disbursements with respect to the Project. Furthermore, it is IFS' responsibility to provide the Department with certain documents and to meet with Department officials upon request.

10. The proposed exemption contains conditions which are designed to ensure the presence of adequate safeguards to protect the interests of the Fund regarding the subject transactions. Except for the Diverse Clientele Test, as set forth in Part I(e) of PTCE 84–14, and the Managed Assets Test, as set forth in Part V(a)(4) of PTCE 84–14, the proposed exemption contains conditions substantially similar to those in PTCE 84–14. In this regard, IFS represents that it satisfies the capitalization requirement for an investment advisor, registered under the Advisers Act, to qualify as a QPAM, in that it has shareholder's equity of more than $750,000. Further, it is represented that the transactions which are the subject of this proposed exemption are not part of an agreement, arrangement, or understanding designed to benefit a party in interest. In addition, neither the Named Fiduciary nor a person related to the Named Fiduciary may engage in transactions with the Diplomat Account.

11. In the absence of the proposed exemption, IFS may be unable to exercise the degree of control over the financing and operations of the Project, as contemplated by the Department and the Trustees. In this regard, pursuant to the Terms of ASA's services contract, ASA had full and complete authority, control, and discretion with respect to the construction, use, and/or sale of the Project and all of its components, including performing whatever tasks might be necessary to maximize the financial return to the Fund of its investment in the Partnership. ASA's overall authority remained subject to the requirement that the total amount of Fund assets at risk (i.e., the Fund's investment in the Partnership plus any recourse debt in excess of the value of the assets in the Partnership) not exceed 13 percent of the Fund assets at the time of the transfer. After ASA assigned its responsibilities to ASA Counselors, with the consent of the Trustees and the Department, ASA Counselors was obligated to comply with the 13% Limitation. Thereafter, when ASA Counselors resigned, and the Trustees hired IFS, as successor Named Fiduciary for the Fund with respect to the Diplomat Account, IFS did not initially anticipate that any transfers would be made to the Diplomat Account in excess of the 13% Limitation.

However, shortly after IFS began functioning as the independent Named Fiduciary, IFS alerted the Department of its concern that the amount of the Fund's assets invested in the Project, plus recourse debt, would soon exceed the 13% Limitation. Indeed, exceeding the 13% Limitation seemed likely to IFS, given the difficulty of placing sufficient nonrecourse debt on the Project, the projected budget to complete construction, and the fluctuating value of the Fund's total investment portfolio.

In this regard, as of February 17, 2001, the Partnership had drawn down approximately $522 million from the Fund. It is represented that IFS was advised that the total value of the assets of the Fund, as of December 31, 2000, was $4.3 billion (13% of which is $559 million), and as of February 17, 2001, was $4.2 billion (13% of which is $546 million). Based on current budget projections, IFS estimates that the Fund would likely exceed the 13% Limitation well before the Partnership could close on any financing.

Absent a modification to the 13% Limitation, completion of the Project without interruption is not likely, because the Partnership could not promptly obtain the requisite financing or sell sufficient assets to remain within that limit. In this regard, LaSalle concluded that finding alternative debt financing on a best case scenario is likely to take at least three (3) to four (4) months. Any financing obtained prior to a certificate of occupancy is likely to be advanced under onerous terms to the Partnership and would include recourse to the Fund. Further, LaSalle has concluded that if, because of the 13% Limitation, the Fund now sought to sell the Property, rather than complete it, the Fund would suffer substantial losses.

Instead, LaSalle believes that it would be far more advantageous (assuming it is legally permissible) for the Fund to finance the Project to completion. In this regard, if construction is completed and the Project achieves stabilized income, LaSalle projects that the increased value of the Project, as completed, less the cost of completion will likely be higher than the value of the Project, if it were to be sold as a distressed asset. In addition, if construction were abandoned or interrupted now, there would be significant costs associated with shutting down the Project (either temporarily or permanently) until the Property could be sold that would not otherwise be incurred. LaSalle has concluded that the total expenditures that would result from the abandonment or interruption of the Project would cause the Project to significantly exceed the 13% Limitation.

Although LaSalle is still completing its review of the budget for completion of the Project, it has, nevertheless, concluded that the budget prepared by the Partnership on September 30, 2000, which estimated the cost of the Project at $614,745,884, does not accurately reflect the true situation. It is represented that, in part, this is because the September 30 budget excludes approximately $61 million of hard cost increases, various other hard costs that have been identified since that time, and other normal budget scope items (*e.g.*, start-up operating losses). Instead, based on its preliminary review of the budget, LaSalle estimates that the total cost of the development of the Project and the first year operating losses could total approximately, but not more than, $800 million.

It is the opinion of LaSalle that additional funding by the Fund up to a flat dollar amount of sufficient magnitude to allow for the completion of the Project is the best financing solution currently available to the Partnership. This solution will allow the Partnership to extract the most value from its investment in the long run, and avoid the inevitable but unnecessary losses that the Fund would face if the Project were abandoned now. A flat dollar limitation would also remove the uncertainty as to how and if the Project will be financed to completion.

First, uncertainty will be reduced by setting the limitation at $800 million because this dollar amount should cover the estimated completion of the Project with a suitable contingency. In the opinion of LaSalle, it would be unwise, due to the history and uncertainties of the Project, not to seek an allocation limit that was in excess of what it believes to be the required need.

Second, aside from providing a sufficient increase in the 13% Limitation, a flat limitation, rather than a percentage limitation will further reduce uncertainty because fluctuations in the total value of Fund assets will not result in constant changes to the limitation.

Elimination of financing uncertainty will, in turn, allow the Project team to focus on completing construction, installing the best hotel operator, opening the hotel, and generating revenues as soon as possible. It would overcome concerns in booking rooms that there will not be enough capital to complete the hotel, an issue which the marketing team must constantly address.

In light of LaSalle's conclusions, as summarized above, IFS has proposed replacement of the 13% Limitation with the following requirement:

> The Trustees will instruct the custodian of the Fund to transfer to the Diplomat Account any additional amount requested by the independent named fiduciary for the operations or expenses of the Diplomat Account or the Partnership, so long as the total amount of Fund assets at risk (*i.e.*, the Fund's investment in the Partnership plus any recourse debt in excess of the value of the assets in the Partnership) does not exceed $800 million at the time of the transfer.

As the Department previously noted in PTE 99–46, the additional undertakings agreed to by the Trustees, including the appointment of an independent fiduciary and the limitation on the total Fund investment in the Project, were and are material factors in the Department's determination to grant that exemption, as well as in considering any modification thereto.

Based upon the arguments presented by IFS, the Department has tentatively agreed to the proposed modification requested by IFS and invites interested persons to comment on such modification.

12. In summary, IFS represents that the transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because, among other things:

(a) IFS, acting as the Named Fiduciary for the Diplomat Account, is an investment adviser registered under the Advisers Act, with shareholders' equity in excess of $750,000;

(b) At the time of the transaction, the party in interest or its affiliate does not have, and during the preceding one (1) year has not exercised, the authority to appoint or terminate IFS, as the Named Fiduciary and manager of the Fund's assets in the Diplomat Account, or to negotiate the terms on behalf of the Fund (including renewals or modifications) of the management agreement;

(c) The subject transactions are not those which are described in PTCE 81–6; PTCE 83–1; or PTCE 82–87;

(d) The terms of the transactions were negotiated on behalf of the Diplomat Account by, or under the authority and general direction of IFS, effective as of November 3, 2000, and either IFS or (so long as IFS retains full fiduciary responsibility with respect to the transaction, a property manager acting in accordance with written guidelines established and administered by IFS, has made or will make the decision on behalf of the Diplomat Account to enter into each transaction;

(e) The transactions are not part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(f) At the time each transaction is entered into, renewed, or modified, the terms of the transaction are at least as favorable to the Diplomat Account as the terms generally available in arm's length transactions between unrelated parties;

(g) Neither IFS, nor any affiliate thereof, nor any owner, direct or indirect, of a 5 percent (5%) or more interest in IFS, is a person who, within the ten (10) years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of any felony, as set forth in Section I(g) of this proposed exemption;

(h) Neither IFS, nor a person related thereto, engages in the transactions with the Diplomat Account which are the subject of this proposed exemption;

(i) Services, facilities, and any goods incidental thereto, provided by a place of public accommodation which is owned by the Diplomat Account managed by IFS, as the Named Fiduciary, will be furnished to any party in interest on a basis which is comparable to the furnishing of such services, facilities and incidental goods to the general public;

(j) Completion of the Project without interruption, absent a modification to the 13% Limitation, is not likely, because the Partnership could not promptly obtain the requisite financing or sell sufficient assets to remain within that limit;

(k) The Fund would incur significant costs associated with shutting down the Project (either temporarily or permanently) until the Property could be sold that would not otherwise be incurred;

(l) A distressed sale of the Property would cause substantial losses for the Fund; and

(m) The increased value of the Project, as completed, less the cost of completion will likely be higher than the value of the Project, if it were to be sold as a distressed asset.

Notice To Interested Persons

IFS will furnish a copy of the Notice of Proposed Exemption (the Notice) along with the supplemental statement (the Supplemental Statement), as described at 29 CFR § 2570.43(b)(2), to the Trustees of the Fund and to interested persons who commented in writing to the Department in connection with PTE 99–46, to inform such persons of the pendency of this exemption. In this regard, some of the Trustees of the Fund are also senior officers of the Union. IFS believes that providing notice to the Trustees of the Fund and to interested persons who commented in writing to the Department in connection with PTE 99–46 should be sufficient, because the requested exemption involves the technical requirements of the Act related to the use of qualified professional asset managers and it is unlikely that individuals other than the Trustees and those who commented on PTE 99–46 would be concerned with such an exemption.

A copy of the Notice, as it appears in the **Federal Register**, and a copy of the Supplemental Statement, will be provided, by first class mailing, within ten (10) days of the publication of the Notice in the **Federal Register**. It is represented that the costs of notifying interested persons will be borne by the Fund. Comments and requests for a hearing are due on or before 40 days from the date of publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (this is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve

a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 15th day of March, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–7044 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001–09; Exemption Application No. D–10856, et al.]

Grant of Individual Exemptions; Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis Professional Association Section 401(k) Profit Sharing Plan (et. al)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis Professional Association Section 401(k) Profit Sharing Plan (the Plan) Located in Tampa, Florida

[Prohibited Transaction Exemption 2001–09; Exemption Application No. D–10856]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales by the individually directed accounts of certain participants (the Participants) in the Plan of certain limited partnership units (the Units) to the Participants, provided the following conditions are satisfied: (a) each sale is a one-time transaction for cash; (b) no commissions are charged in connection with the sales; (c) the Plan receives not less than the fair market value of the Units at the time of the transactions; and (d) the fair market value of the Units is determined by a qualified entity independent of the Plan and the Participants.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 25, 2001 at 66 FR 7801.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Cranston Print Works Company General Employees' Retirement Plan (the Plan) Located in Cranston, Rhode Island

[Prohibited Transaction Exemption 2001–10; Exemption Application No. D–10909]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the purchase by the Plan of shares of common stock (the Stock) of Cranston Print Works Company (Cranston) from Cranston, the Plan's sponsor; (2) the Plan's holding of the Stock; (3) the acquisition and holding by the Plan of an irrevocable put option (the Put

Option) which permits the Plan to sell the Stock to Cranston at a price which is the greater of: (i) the fair market value of the Stock determined by an independent appraisal at the time of the exercise of the Put Option, or (ii) the price at which the Stock originally was sold by Cranston to the Plan; and (4) the possible future repurchase of the Stock by Cranston pursuant to the Put Option or a right of refusal, provided the following conditions are satisfied: (a) the purchase of the Stock by the Plan will be a one-time transaction for cash, and no commissions will be paid by the Plan with respect to the purchase; (b) the Stock will represent no more than 7.5% of the value of the assets of the Plan; (c) the Plan pays no more than the fair market value of the Stock on the date of the acquisition, as determined by an independent, qualified appraiser; (d) the transactions will be expressly approved on behalf of the Plan by a qualified, independent fiduciary based upon a determination that such acquisition is in the best interests of, and appropriate for, the Plan; (e) the Plan's independent fiduciary will monitor the holding of the Stock by the Plan and take whatever action is necessary to protect the Plan's rights, including, but not limited to, the exercising of the Put Option if the independent fiduciary, in its sole discretion, determines that such exercise is appropriate; (f) the purchase price per share for any shares of the Stock that are repurchased by Cranston pursuant to the right of first refusal will be the greater of: (i) the then current fair market value of the Stock, as determined by a bona fide third party purchase offer from an unrelated party, or (ii) the fair market value of the Stock, as determined by a contemporaneous independent appraisal; and (g) Cranston's obligation under the Put Option is secured by an escrow arrangement, as described in the notice of proposed exemption (the Notice), which is maintained by the Plan's independent fiduciary as long as the Plan continues to hold any shares of the Stock.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice, which was published on December 6, 2000 at 65 FR 76304.

Written Comments

The Department received 11 written comments and two requests for a public hearing from interested persons in response to the Notice. One of the commentators who had requested a hearing subsequently met with the Chairman of the Board of Directors of Cranston. The commentator and his attorney have indicated to the Department that their questions and concerns regarding the proposed transaction have been addressed. Thus, this commentator states that he now approves of the transaction and desires to see the exemption granted as it was proposed. Accordingly, the commentator has withdrawn his request for a hearing.

The remaining ten comments question the prudence of the Plan's investment in the Stock, particularly in light of the decline in value of the Stock in recent years. In addition, some commentators have alleged that senior level managers at Cranston have made poor management decisions which have adversely impacted the profitability of the company.

The Plan's independent fiduciary, State Street Bank and Trust Company (the Bank) of Boston, Massachusetts, responded to the comments as follows.

The Bank represents that in evaluating whether to cause the Plan to acquire the Stock, the Bank and its independent financial advisor, Willamette Management Associates (Willamette), engaged in an extensive due diligence process. First, the Bank has reviewed the Plan's investment guidelines and objectives for the Plan's investments, as well as the Plan's existing investments, and determined that investment in the Stock would be appropriate. Willamette provided a financial analysis of Cranston and the relevant industry. Willamette is prepared to provide a written opinion that states (i) that the consideration to be paid by the Plan for the Stock is not greater than fair market value; and (ii) that such acquisition is fair to the Plan from a financial point of view.

The Bank represents that as part of the due diligence process, representatives of the Bank and Willamette met with Cranston management and reviewed the factors influencing past corporate performance as well as business plans for the future. Willamette reviewed the financial statement of Cranston for the years ending 1997, 1998, and 1999 and unaudited statements from 2000 in order to make their determinations. The Bank has also reviewed those financial statements.

The Bank represents that in evaluating the possible purchase of the Stock, the Bank and Willamette probed into the reasons for its past decline. The decline was found to be attributable primarily to the Cranston Apparel Fabrics division. The Bank represents that throughout the 1990's the domestic textile industry as a whole declined significantly due to the increase in apparel imports and consumer demand for value-priced garments. The Bank notes that, at the present time, only about 15% of the apparel acquired in the United States is actually sewn here. Reviewing Cranston's current situation, the Bank states that it is clear that changes have been made by Cranston's management which have put the company in a more favorable position. Specifically, Cranston implemented a major restructuring in 1996 and 1998, closing two plants which specialized in apparel fabrics printing. These closings have curtailed a significant portion of Cranston's losses related to this troubled industry. Currently, Cranston is primarily composed of three diversified businesses: trucking, chemical, and textile manufacturing (i.e., non-apparel fabrics). The current fair market value of the Stock reflects the business projections for these operating divisions of Cranston.

The Bank states that the above information provided the basis for assessing the prudence of an investment in the Stock. The Plan's proposed investment in the Stock was further reviewed by the Bank's Fiduciary Committee (the Committee). The Committee is composed of senior management of the Bank. The Committee received a presentation of the due diligence process related to the Stock that was performed by the Bank. Willamette also presented a financial analysis of Cranston and the Stock. The valuation methodologies employed by Willamette were the comparable company method and the capitalization of earnings method. These methods are commonly used by financial advisors in valuing closely-held companies. The Committee also discussed the Put Option, which provides that if the independent fiduciary (i.e., the Bank) determines that the Stock is no longer a prudent investment for the Plan, it may require Cranston to repurchase the Stock at the greater of (i) the price paid for the Stock by the Plan, or (ii) the fair market value at the date the Put Option is exercised.

After the granting of this exemption, the Bank represents that it will convene another Committee meeting to consider finalizing the purchase of the Stock. This meeting will involve an update by Willamette related to Cranston's financial situation and the Stock. The purpose of the meeting will be to ensure that the purchase price to be paid by the Plan will not exceed the Stock's current fair market value and that the investment is still prudent.

Therefore, the Bank, acting as the Plan's independent fiduciary with

respect to the proposed purchase by the Plan of the Stock, will ensure that the transaction is appropriate for, and in the best interests of, the Plan. In addition, the Bank represents that it will monitor the proposed holding of the Stock by the Plan and will take whatever actions are necessary to safeguard the interests of the Plan in accordance with the terms and conditions of the final exemption.*

With respect to the request for a hearing made by one commentator that was not withdrawn, the Department has determined that a public hearing is not necessary in this case. In addition, the Department is satisfied that the exemption contains adequate independent safeguards to protect the interests of the Plan and of its participants and beneficiaries. Accordingly, based on all of the information contained in the record, including the comments submitted and the applicant's response thereto, the Department has determined to grant the exemption as proposed.

Interested persons are invited to review the complete exemption file, which is available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 15th day of March, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–7045 Filed 3–20–01; 8:45 am]

BILLING CODE 4510–29–P

* The Department notes that any decision made by the Bank as the Plan's independent fiduciary with respect to the approval of the acquisition of the Stock, the continued retention of the Stock by the Plan, and the exercise of the Plan's rights under the Put Option shall be fully subject to the fiduciary responsibility provisions of the Act. However, by granting this exemption, the Department is not expressing an opinion regarding whether any actions taken by the Bank would be consistent with its fiduciary obligations under Part 4 of Title I of the Act. In this regard, section 404(a) requires, among other things, that a plan fiduciary act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making decisions on behalf of a plan. In addition, section 409 provides, in part, that a fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by Title I of the Act shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL POLICY FOUNDATION

Notice of Meeting

The Board of Trustees of the Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation will hold a meeting beginning at 8:30 a.m. on Friday, April 13, 2001 at the offices of the U.S. Institute for Environmental Conflict Resolution, 110 South Church, Ste. 3350, Tucson, AZ 85701.

The matters to be considered will include (1) A report on the U.S. Institute of Environmental Conflict Resolution; and (2) A report from the Udall Center for Studies and Public Policy; (3) Program Reports, and (4) A report on the Native Nations Institute. The meeting is open to the public.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, 110 South Church, Ste. 3350, Tucson, Arizona 85701. Telephone: (520) 670–5608.

Dated this 14th day of March, 2001.

Christopher L. Helms,

Executive Director,

[FR Doc. 01–6975 Filed 3–2–01; 8:45 am]

BILLING CODE 6820–FN–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meetings/ Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (P.L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

Dates and Time: April 26, 2001, 12:00 p.m.–1:00 p.m. EST.

For International Watch Information Contact: Kathleen A. Blank, Attorney/ Program Specialist, NCD, 1331 F Street NW., Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

The committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This advisory committee meeting/conference call of NCD will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on March 15, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–6952 Filed 3–20–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of the National Museum Services Board

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the function of the board. Notice of this meeting is required under the Government through the Federal Advisory Committee Act (5 U.S.C. App.) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

TIME/DATE: 2:00–4:00 pm on Wednesday, April 4, 2001.

STATUS: Open.

ADDRESSES: The Library of The Lady Bird Johnson Wildflower Center, 4801 La Crosse Avenue, Austin, TX 78739, (512) 292–4200.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Room 510, Washington DC 20506, (202) 606–4649.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting on Wednesday, April 4, 2001 will be open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, (202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

Agenda

81st Meeting of the National Museum Services Board in The Library of The Lady Bird Johnson Wildflower Center, 4801 La Crosse Avenue, Austin, TX 78739, on Wednesday, April 4, 2001

2:00 p.m.–4:00 p.m.

I. Chairman's Welcome
II. Approval of Minutes from the 80th NMSB Meeting
III. Director's Report
IV. Staff Reports
  (a) Office of Management and Budget
  (b) Office of Public and Legislative Affairs
  (c) Office of Technology and Research
  (d) Office of Museum Services
  (e) Office of Library Services
V. Old Business
  - Reauthorization update
  - General Operating Support Grants: Continued Discussion

Dated: March 15, 2001.

Linda Bell,

Director of Policy, Planning and Budget, National Foundation on the Arts and Humanities, Institute of Museum and Library Services.

[FR Doc. 01–6973 Filed 3–20–01; 8:45 am]

BILLING CODE 7036–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its annual meeting AND its regular monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees.

DATES: The meeting will begin at 10:00 a.m. on Wednesday, April 11, 2001.

ADDRESSES: The meeting will be held at the Capitol Plaza Hotel, 100 State Street, Montpelier, VT.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 64 Main Street, Room 21, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256

Dated: March 14, 2001.

Daniel Smith,

Executive Director.

[FR Doc. 01–6974 Filed 3–20–01; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 70—Domestic Licensing of Special Nuclear Material.

2. *Current OMB approval number:* 3150–0009.

3. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally, renewal applications are submitted every ten years and for major fuel cycle facilities updates of the safety demonstration section are submitted every two years. Nuclear material control and accounting information is submitted in accordance with specified instructions. Nuclear criticality safety training program information pursuant to DG–3008 is submitted with the application or renewal.

4. *Who is required or asked to report:* Applicants for and holders of specific NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

5. *The number of annual respondents:* 600.

6. *The number of hours needed annually to complete the requirement or request:* 86,279 hours (77,427 reporting hours plus 8,852 recordkeeping hours) an average of approximately 129 hours per response for applications and reports.

7. *Abstract:* Part 70 establishes requirements for licenses to own, acquire, receive, possess, use, and

transfer special nuclear material. Draft Regulatory Guide DG–3008 provides guidance on an acceptable nuclear criticality safety training program. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations concerning the use of special nuclear material. The revised estimate of burden reflects the addition of requirements for documentation for termination or transfer of licensed activities, and modifying licenses.

Submit, by May 21, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 14th day of March, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–6982 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:*

NRC Form 327, "Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report".

NUREG/BR–0096, "Instructions and Guidance for Completing Physical Inventory Summary Reports".

2. *Current OMB approval number:* 3150–0139.

3. *How often the collection is required:* The frequency of reporting corresponds to the frequency of required inventories, which depends essentially on the strategic significance of the SNM covered by the particular license. Certain licensees possessing strategic SNM are required to report inventories every 2 months. Licensees possessing SNM of moderate strategic significance must report every 6 months. Licensees possessing SNM of low strategic significance must report annually.

4. *Who is required or asked to report:* Fuel facility licensees possessing special nuclear material.

5. *The number of annual respondents:* 10.

6. *The number of hours needed annually to complete the requirement or request:* 98 hours (an average of approximately 4.25 hours per response for 23 responses).

7. *Abstract:* NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) special nuclear material theft or diversion. NUREG/BR–0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

Submit, by May 21, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide website: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 14th day of March, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–6980 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–245, 50–336, 50–423]

In the Matter of Northeast Nuclear Energy Company, et al., (Millstone Nuclear Power Station Unit Nos. 1, 2, and 3); Order Approving Transfer of Licenses and Conforming Amendments

I.

Northeast Nuclear Energy Company (NNECO) is a non-owner co-licensee of Facility Operating License No. DPR–21, which authorizes possession and maintenance but not operation of Millstone Nuclear Power Station, Unit 1 (MP1), and the licensed operator and non-owner of Facility Operating License Nos. DPR–65 and NPF–49, which authorize the possession, use, and operation of Millstone Nuclear Power Station, Unit 2 (MP2) and Unit 3 (MP3). The units are owned by various co-licensees as listed below. All three units (the facilities) are located at the licensees' site in New London County, Connecticut.

II.

Under cover of a letter dated August 31, 2000, NNECO submitted an application requesting approval of the proposed transfer of the facility operating licenses to the extent now held by NNECO, the licensed operator and non-owner of the facilities, and the co-licensee selling owners listed below holding ownership interests in the facilities to a new generating company, Dominion Nuclear Connecticut, Inc. (DNC). DNC is an indirect wholly owned subsidiary of Dominion Energy, which is in turn wholly owned by Dominion Resources, Inc. (DRI). NNECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated October 12 and November 8, 2000, and February 16, 2001. Hereinafter, the August 31, 2000, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove NNECO and the transferring owners (listed below) from the facility operating licenses and would add Dominion Nuclear Connecticut, Inc. in its place. After completion of the proposed transfer, DNC will be the sole owner of, and be authorized to maintain, MP1, will be the sole owner and operator of MP2, and will hold a 93.4707% ownership interest in MP3 and will be the sole operator of MP3. Central Vermont Public Service Corporation (Central Vermont), which holds a 1.7303% ownership interest in MP3, and Massachusetts Municipal Wholesale Electric Company (Massachusetts Municipal), which holds a 4.7990% ownership interest in MP3, are the only licensee owners of MP3 that are not involved in the subject license transfers.

The following is a list of the licensees involved in the license transfers that hold ownership interests in MP1, MP2, and MP3, and their respective interests:

MP1 and MP2

The Connecticut Light and Power Company (CL&P) (81%)
Western Massachusetts Electric Company (WMECO) (19%)

M3

CL&P (52.9330%)
WMECO (12.2385%)
Public Service Co. of New Hampshire (2.8475%)
The United Illuminating Company (3.6850%)
New England Power Company (16.2140%)
Central Maine Power Company (2.5000%)
Chicopee Municipal Lighting Plant (1.3500%)
Connecticut Municipal Electric Energy Cooperative (1.0870%)
Vermont Electric Generation and Transmission Cooperative (0.3500%)
Fitchburg Gas & Electric Light Company (0.2170%)
Village of Lyndonville Electric Department (0.0487%)

NNECO requested approval of the transfer of facility operating licenses and conforming license amendments pursuant to 10 CFR 50.80 and 10 CFR 50.90. The staff published a notice of the request for approval and an opportunity for a hearing in the **Federal Register** on October 24, 2000 (65 FR 63630). The Commission received no comments or requests for hearing pursuant to the notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and relying upon the representations and agreements contained in the application, the NRC staff has determined that DNC is qualified to hold the licenses to the extent proposed in the application, and that the transfer of the licenses to DNC is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated March 9, 2001.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to DNC is approved, subject to the following conditions:

(1) DNC shall not take any action that would cause DRI or its parent companies to void, cancel, or diminish DNC's commitment to have sufficient funds available to fund an extended shutdown of MP2 and MP3 as represented in the application for approval of the transfer of the licenses for MP2 and MP3.

(2) The Selling Owners of MP2 and MP3 shall transfer to the DNC decommissioning trusts for MP2 and MP3 at the time the Selling Owners' interests in the Millstone licenses are transferred to DNC, all of the Selling Owners' accumulated decommissioning trust funds for MP2 and MP3. Immediately following such transfer, the amounts in the DNC decommissioning trusts must, with respect to the interests in MP2 and MP3 transferred from the Selling Owners that DNC would then hold, be at a level no less than the formula amounts under 10 CFR 50.75.

(3) On the closing date of the transfer of the Selling Owners' interests in MP1 to DNC, DNC shall: (1) obtain from the Selling Owners of MP1 the decommissioning trust fund for MP1 in an amount no less than $268,300,000; and (2) receive a parent company guarantee pursuant to 10 CFR 50.75(e)(1)(iii)(B) (to be updated annually as required under 10 CFR 50.75(f)(1) and 50.82(a)(8)(iv), unless otherwise approved by the NRC) in an amount which, when combined with the decommissioning trust fund for MP1, equals a total of the site-specific decommissioning funding cost as of the closing date of the transfer as estimated (in year 2000 dollars) in accordance with 10 CFR 50.82 (including the use of a 2 percent annual real rate of return as provided in 10 CFR 50.75(e)(1)(i)).

(4) The decommissioning trust agreement for MP1, MP2, and MP3 at the time the transfer of the units to DNC is effected and thereafter, are subject to the following conditions:

(a) The decommissioning trust agreement must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investment in the securities or other obligations of DRI or its affiliates, successors, or assigns are prohibited. Except for investments tied to market

indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

(c) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "Prudent Investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(5) DNC shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the MP1, MP2, and MP3 licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(6) Before the completion of the transfer of MP1, MP2, and MP3, to it, DNC shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that DNC has obtained the appropriate amount of financial insurance required of licensees under 10 CFR Part 140, and the property insurance required of licensees under 10 CFR 50.54(w) of the Commission's regulations.

(7) After receipt of all required regulatory approvals of the transfer of MP1, MP2, and MP3, DNC shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by March 9, 2002, this Order shall become null and void; however, upon written application and for good cause shown, the date may be extended in writing.

It Is Further Ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated August 31, 2000, and supplemental submittals dated October 12 and November 8, 2000, and February 16, 2001, and the safety evaluation dated March 9, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site(http://www.nrc.gov).

Dated at Rockville, Maryland this 9th day of March 2001.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6983 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Nuclear Management Company, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Nuclear Management Company, LLC (the licensee), to withdraw its November 28, 2000, application for proposed amendment to Facility Operating License No. DPR–22 for the Monticello Nuclear Generating Plant, Unit No. 1, located in Wright County, Minnesota.

The proposed amendment would have revised the facility Technical Specifications (TSs) by establishing TSs for the emergency service water system and by adding a general limiting condition for operation to provide requirements when a support system included in the TSs is inoperable.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 27, 2000 (65 FR 81925). However, by letter dated February 28, 2001, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 28, 2000, and the licensee's letter dated February 28, 2001, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and which is accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th of March 2001.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6979 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–353]

Exelon Generation Company; Limerick Generating Station, Unit 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Appendix G to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) for Facility Operating License No. NPF–85, issued to Exelon Generation Company (Exelon or the licensee) for operation of the Limerick Generating Station, Unit 2 (Limerick Unit 2), located in Montgomery and Chester Counties in Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

Appendix G to 10 CFR part 50, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, Section IV.A.2.a, states, "The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions." Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical

Engineers Boiler and Pressure Vessel Code (ASME Code), Section XI, Appendix G, limits.

To address provisions of amendments to the technical specifications' P–T limits, the licensee requested in its submittal dated November 20, 2000, as supplemented December 20, 2000, that the Nuclear Regulatory Commission (NRC) staff exempt Limerick Unit 2 from application of specific requirements of Appendix G to 10 CFR part 50, and substitute use of ASME Code Case N–640. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Since the K_{IC} fracture toughness curve shown in ASME Code, Section XI, Appendix A, Figure A–2200–1 (the K_{IC} fracture toughness curve) provides greater allowable fracture toughness than the corresponding K_{ia} fracture toughness curve of ASME Code, Section XI, Appendix G, Figure G–2210–01 (the K_{ia} fracture toughness curve), using Code Case N–640 for establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G, and therefore, an exemption to Appendix G to apply the Code Case would be required.

The Need for the Proposed Action

ASME Code Case N–640 is needed to revise the method used to determine the reactor coolant system (RCS) P–T limits, since continued use of the present curves unnecessarily restricts the P–T operating window. Since the RCS P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME Code, Section XI, Appendix G, procedure, continued operation of Limerick Unit 2 with these P–T curves without the relief provided by ASME Code Case N–640 would unnecessarily require the licensee to maintain the RPV at a temperature exceeding 212 °F in a limited operating window during the pressure test. Consequently, steam vapor hazards would continue to be one of the safety concerns for personnel conducting inspections in primary containment. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, would eliminate steam vapor hazards by allowing inspections in primary containment to be conducted at a lower coolant temperature.

Environmental Impacts of the Proposed Action

The proposed action would maintain an adequate margin of safety against brittle failure of the Limerick Unit 2 RPV.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Limerick Generating Station, Unit 2, dated April 1984.

Agencies and Persons Consulted

In accordance with its stated policy, on January 19, 2001, the staff consulted with the Pennsylvania State official, David Ney of the Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Findings of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 20, 2000, as supplemented December 20, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:\\www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 15th day of March 2001.

For the Nuclear Regulatory Commission.

Christopher Gratton, Sr.,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6981 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Reactor Oversight Process Initial Implementation Evaluation Panel; Meeting Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L., 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC), on October 2, 2000, announced the establishment of the Reactor Oversight Process Initial Implementation Evaluation Panel (IIEP). The IIEP functions as a cross-disciplinary oversight group to independently monitor and evaluate the results of the first year of implementation of the Reactor Oversight Process (ROP). A Charter governing the IIEP functions as a Federal Advisory Committee was filed with Congress on October 17, 2000, after consultation with the Committee Management Secretariat, General Services Administration. The IIEP will hold its fifth meeting on April 2–3, 2001, in the Commission Conference Hearing Room O–1F16, located at the U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland.

The IIEP meeting participants are listed below along with their affiliation:

A. Randolph Blough—U.S. Nuclear Regulatory Commission
R. William Borchardt—U.S. Nuclear Regulatory Commission
Kenneth Brockman—U.S. Nuclear Regulatory Commission
Mary Ferdig—Ph. D. Candidate, Organization Development Program, Benedictine University; Ferdig Inc.

Organizational Research and Development
Steve Floyd—Nuclear Energy Institute
David Garchow—PSEG Nuclea
Richard Hill—Southern Nuclear Operating Company
Rod Krich—Exelon Corporation
Robert Laurie—California Energy Commission
James Moorman, III—U.S. Nuclear Regulatory Commission
Loren Plisco—U.S. Nuclear Regulatory Commission
Steven Reynolds—U.S. Nuclear Regulatory Commission
A. Edward Scherer—Southern California Edison Company
James Setser—Georgia Department of Natural Resources
Raymond Shadis—New England Coalition on Nuclear Pollution
James Trapp—U.S. Nuclear Regulatory Commission

A tentative agenda of the meeting is outlined as follows:

April 2, 2001

9:00 a.m. Introduction/Meeting Objectives and Goals/Review of Meeting Minutes from February 26–27, 2001 Meeting
9:30 a.m. Update from NRC Staff on the Reactor Oversight Process—Bill Dean/NRR
—Self-Assessment Program
—Results of the Internal/External Lessons Learned Workshops
12:15 p.m. Lunch
1:15 p.m. IIEP Members Feedback from the Reactor Oversight Process Lessons Learned Workshop
2:00 p.m. Presentations by Invited Stakeholders
3:00 p.m. Discussion of Consensus on Final List of Issues
4:00 p.m. Panel Discussion of Narrative Developed in Support of IIEP Issues
6:00 p.m. Adjourn

April 3, 2001 Meeting

8:00 a.m. Recap of Previous Day's Meeting/Meeting Objectives and Goals
8:30 a.m. Panel Discussion of Narrative Developed in Support of IIEP Issues
12:00 p.m. Lunch
1:00 p.m. Panel Discussion of Narrative Developed in Support of IIEP Issues
2:00 p.m. Agenda Planning Session/ Public Comments/General Discussion
3:00 p.m. Adjourn

Meetings of the IIEP are open to the members of the public. Oral or written views may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make oral statements should notify Mr. Loren R. Plisco (Telephone 404/562–4501, e-mail LRP@nrc.gov) or Mr. John D. Monninger (Telephone 301/415–3495, e-mail JDM@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; and the Panel Chairman's ruling regarding requests to present oral statements and time allotted, may be obtained by contacting Mr. Loren R. Plisco or Mr. John D. Monninger between 8:00 a.m. and 4:30 p.m. EST.

IIEP meeting transcripts and meeting reports will be available from the Commission's Public Document Room. Transcripts will be placed on the agency's web page.

Dated: March 15, 2001.

Andrew Bates,

Advisory Committee Management Officer.

[FR Doc. 01–6985 Filed 3–20–01; 8:45 a.m.]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 26 through March 9, 2001. The last biweekly notice was published on March 7, 2001 (66 FR 13797).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public

Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 20, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 26, 2000, as supplemented November 6, 2000. This notice supersedes the notice concerning this facility that appeared at 65 FR 31356, May 17, 2000.

Description of amendments request: The proposed amendments would revise the maximum Ultimate Heat Sink (UHS) temperature allowed by Technical Specification (TS) 3.7.2, "Service Water (SW) System and Ultimate Heat Sink (UHS)," for the Brunswick Steam Electric Plant (BSEP), Unit Nos. 1 and 2. The maximum 24-hour average UHS temperature specified in Required Action H.1 would be revised from 89°F to 90.5°F. To provide consistency with the new maximum 24-hour average UHS temperature, these amendments would also: (1) Revise the Condition H temperature range from "$>$89°F and $\leq$92°F" to "$>$90.5°F and $\leq$92°F"; and (2) revise Surveillance Requirement 3.7.2.2 to require verification that the UHS temperature is $\leq$90.5°F versus $\leq$89°F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation with the maximum 24 hour average UHS water temperature as high as 90.5°F does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The BSEP SW system is designed to provide cooling water for the removal of heat from equipment required for a safe reactor shutdown following a Design Basis Accident (DBA) or transient. This equipment includes the Diesel Generators (DGs), Residual Heat Removal (RHR) pump seal coolers, room cooling units for Emergency Core Cooling System (ECCS) equipment, and Residual Heat Removal Service Water (RHRSW) heat exchangers. The SW system also provides cooling to other components, as required, during normal operation. The SW system is not an initiator of any previously evaluated accident. The safety related components associated with SW cooling have been analyzed for a maximum UHS temperature of 92°F. The proposed change maintains this maximum UHS temperature. As such, the qualification of safety related components is not affected. Therefore, the probability of occurrence of a previously evaluated accident is not increased.

The new maximum 24 hour average UHS water temperature limit of 90.5°F has been evaluated and it was determined that the SW system will maintain sufficient heat removal capability. Existing TS operability requirements for the UHS ensure that conservatively bounding assumptions used in the analysis of the SW system's heat removal capability will be met, or the UHS will be declared inoperable. As such, the consequences of previously analyzed accidents are not affected[.]

2. Operation with the maximum 24 hour average UHS water temperature as high as 90.5°F will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Increasing the maximum 24 hour average UHS water temperature does not create the possibility of an accident of a different type than any evaluated previously in the safety analysis report. UHS water temperature does not represent an accident initiator. There is no physical change to any plant structure, system, or components. Therefore, there is no possibility of an accident of a different type.

Increasing the maximum 24 hour average UHS water temperature does not create the possibility of a malfunction of a different type than any evaluated previously. The safety related components associated with SW cooling have been analyzed for a maximum UHS temperature of 92°F. This maximum UHS temperature is maintained by the proposed change. As such, this condition does not introduce the possibility of a malfunction of a different type than any evaluated.

3. Operation with the maximum 24 hour average UHS water temperature as high as 90.5°F does not involve a significant reduction in a margin of safety.

UHS temperature limits are established to ensure that the SW system is able to provide sufficient cooling water for the removal of heat from equipment, such as the DGs, RHR pump seal coolers, ECCS room cooling units, and RHRSW heat exchangers, required for a safe reactor shutdown following a DBA or transient. CP&L has performed an analysis which demonstrates that this capability is not reduced with the increased maximum 24 hour average UHS water temperature limit. Existing TS operability requirements for the UHS ensure that conservatively bounding assumptions used in the analysis of the SW system's heat removal capability will be met, or the UHS will be declared inoperable. As such, the ability of the SW system to perform its intended safety function is not affected and the margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards considerations.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 15, 2001.

Description of amendment request: The proposed amendment revises Technical Specifications (TS) 3/4.3.2 "Engineered Safety Features Actuation System Instrumentation," 3/4.3.3.1 "Radiation Monitoring Instrumentation," 3/4.6.1.1 "Containment Integrity," 3/4.6.1.7 "Containment Ventilation System," 3/4.6.3 "Containment Isolation Valves," 3/4.9.4 "Containment Building Penetrations," 3/4.9.9 "Containment Ventilation System Isolation System," and associated Bases to clarify and relocate requirements by implementing the guidance of pre-approved NUREG–1431, Revision 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes modify required Actions and Surveillance Requirements previously reviewed and approved by the NRC in improved Technical Specifications (ITS) and changes to ITS as described in TSTF [Technical Specification Traveler Form]–30, TSTF–45, TSTF–46, and TSTF–269. These changes are administrative in nature in that they do not modify the design or operation of Structures, Systems, and Components (SSCs) that initiate or mitigate the consequences of an accident.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve new plant components or procedures, but only revise existing Technical Specification Actions and Surveillance Requirements. These changes do not modify the design or operation of Structures, Systems, and Components (SSCs) that could initiate an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes modify required Actions and Surveillance Requirements previously reviewed and approved by the NRC in improved Technical Specifications (ITS) and changes to ITS as described in TSTF–30, TSTF–45, TSTF–46, and TSTF–269.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: February 28, 2001.

Description of amendment request: The proposed amendments would revise the Technical Specifications to incorporate new requirements for the Low Pressure Service Water system

standby pump auto start circuitry, related surveillance requirements, and Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

No. The Low Pressure Service Water (LPSW) Auto-start circuitry provides a means of automatic response to start the standby LPSW pump after the running LPSW pump fails to restart following a Loss Of Offsite Power (LOOP) event.

Loss Of Coolant Accidents (LOCA) events actuate the LPSW pumps via the Engineered Safeguards Systems. This modification will not change this response.

The LPSW pumps automatically restart following a LOOP event. A failure of a running LPSW pump to restart and LPSW header pressure not returning to normal operating values following a LOOP event will actuate the LPSW Standby Pump Auto-Start circuitry. The circuitry will start the LPSW standby pump. When LPSW header pressure returns to normal operating values, the auto-start signal will be cleared from the LPSW pumps start circuits.

The modification enhances plant design basis functions by ensuring that the standby LPSW pump starts to provide flow. This removes the necessity to rely on alternative systems and/or components to mitigate design basis events. It will eliminate a degraded/non-conforming condition, and will support returning affected systems to Maintenance Rule (MR) a(2) status.

This modification does not involve an increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

No. This modification adds LPSW Standby Pump Auto-Start circuitry such that if the LPSW pumps fail to restart following a LOOP, the standby LPSW pump will start to provide system flow. This enhances current plant design. It ensures system flow and eliminates reliance on alternative systems and/or components that may or may not be safety related to mitigate the design basis event.

This modification will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety.

No. The proposed change does not adversely affect any plant safety limits, set points, or design parameters. The change also does not adversely affect the fuel, fuel cladding, Reactor Coolant System, or containment integrity. The change will enhance the ability to provide flow from the standby LPSW pump following a LOOP. It eliminates reliance on alternative systems and/or components to mitigate the design basis event should the LPSW pumps fail to restart. Therefore, the proposed change does not involve a reduction in a margin of safety.

Duke has concluded, based on the above, that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005.

NRC Section Chief: Maitri Banerjee, Acting.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: October 30, 2000.

Description of amendment request: Energy Northwest is requesting a revision to the Columbia Generating Station Final Safety Analysis Report (FSAR) in regards to the spent fuel storage and spent fuel cask handling descriptions. There are significant physical differences between the General Electric cask analyzed in the FSAR and the new Holtec HI-STORM 100 cask system. The physical description of the Columbia Generating Station spent fuel pool as discussed in the FSAR, does not accurately reflect the existing configuration. The specific changes to the FSAR include:

1. The FSAR describes two separate pools for spent fuel handling, when there is only one pool. The FSAR states that there is a spent fuel cask storage and a cask loading pool adjacent to the spent fuel pool. There is not a separate spent fuel cask storage and loading pool. There is a spent fuel cask loading pit located within the spent fuel pool. The proposed change is to eliminate references to separate pools and to add a statement that, "Sufficient redundancy is provided in the reactor building crane such that no credible postulated failure of any crane component will result in dropping of the fuel cask and rupturing the fuel storage pool."

2. The FSAR states that limitations on reactor building crane travel preclude transporting the spent fuel casks over the spent fuel pool. There are no interlocks that prevent crane movement over the spent fuel cask pit loading area, which is part of the spent fuel pool. There are interlocks that prevent movement over the spent fuel racks. The proposed change is to add the statement to the FSAR that, "Interlocks on the reactor building crane prevent travel over the spent fuel racks."

3. The FSAR states that at no time while being transported does the fuel cask pass over any safety related equipment. The cask does pass over a safety-related conduit associated with a fuel pool cooling level instrumentation. The proposed change is to add the statement to the FSAR that, "At no time while being transported does the cask pass over any safe shutdown equipment."

4. The FSAR discusses cask loading, handling, and features of construction associated with the GE IF–300 spent fuel cask rather than the Holtec HI–STORM 100 spent fuel cask system, which is the cask system that will be used. The proposed change would accurately describe the HOLTEC HI–STORM 100 spent fuel cask system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences.

Accidents previously evaluated in the FSAR that could be influenced by these FSAR text changes regarding cask handling and spent fuel loading operations include the Spent Fuel Cask Drop Accident (FSAR 15.7.5) and the Fuel Handling Accident (FSAR 15.7.4).

Spent Fuel Cask Drop Accident: Sufficient redundancy is provided in the reactor building crane such that no credible postulated failure of any crane component will result in dropping of the fuel cask and rupturing the fuel storage pool. (Reference: Columbia Generating Station FSAR Section 15.7.5, "Spent Fuel Cask Drop Accident"). The drop accident is not deemed credible and the revision of the FSAR description will continue to maintain the drop accident as incredible. Additionally, as a defense-in-depth measure, crane position interlocks prevent lifting a spent fuel cask over the spent fuel stored in the pool.

As the cask is moved in and out of the fuel pool, it passes over several cables and conduits supporting plant equipment. They include nonsafety-related cables such as those supplying the refueling bridge, and spent fuel pool temperature indicator FPC–TE–7. Additionally, a safety-related conduit for FPC–LE–5 is included in the cask load

path. While a cask drop, which could damage or cut the cable to FPC–LE–5 is not credible, operator error in which the cable is damaged by the cask not clearing the conduit during cask movement may be credible. If the cable were damaged, it might inhibit one train of the automatic isolation signal for the fuel pool cooling system. The automatic isolation of interest occurs on low fuel pool water level, isolating the Seismic Category I cooling portion of the system from the Seismic Category II cleanup portion of the system. A fuel pool low water level coincident with a crane operator damaging the cable for FPC–LE–5 is an extremely low probability event. However, in the case of a damaged cable for FPC–LE–5, automatic isolation on low water level would still occur because a separate, redundant, logic train (from FPC–LE–4) would not be affected and would still be capable of accomplishing the isolation function described in FSAR Section 9.1.3.2.3. The cable for the redundant logic train is not in the cask load path. The cable for FPC–LE–5 also carries a signal for high/low spent fuel pool water level alarm, which has a redundant analogue signal (undamaged in this scenario) from FPC–LS–4.

Fuel Handling Accident: The fuel handling accident is analyzed in FSAR Section 15.7.4. In it, the assumption is made that a failure occurs in a fuel assembly lifting mechanism. The accident which produces the largest number of failed spent fuel rods is the drop of a spent fuel bundle into the reactor core when the reactor pressure vessel (RPV) head is off. The analysis assumes the accident occurs at the maximum height allowed by the fuel handling equipment above spent fuel (34 ft.). Since the same fuel handling mechanism is used in both the reactor (the analyzed accident location) and in the fuel pool, but at a considerably lower available drop height (approximately 3 ft.), the energy available to damage fuel rods is significantly less. As a result, the analyzed fuel handling accident consequences bound the consequences of a fuel assembly drop in the spent fuel pool. Because fuel loaded in a cask will be within approximately 1 ft. [foot] of the elevation of a fuel pool rack, fuel handling for cask loading is essentially the same as other fuel handling within the pool and is also bounded by the FSAR analysis. Therefore the consequences of this accident evaluated previously in the FSAR will not be increased by the proposed change.

The proposed change does not entail any physical alteration to the present plant configuration. Therefore, individual precursors of an accident are unaffected and the probability of an accident previously evaluated is not expected to increase. In addition, since the functions and capabilities of systems designed to operate safely and/or mitigate the consequences of an accident have not changed, the consequences of an accident previously evaluated are not expected to increase.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration.

Information presented in the FSAR describing the spent fuel cask safe load path is revised by this amendment. To agree with the current plant configuration noted above, the FSAR will need to be changed to read, "At no time while being transported does the cask pass over any safe shutdown equipment." The objectives referenced in RG [Regulatory Guide] 1.13, Rev. 1, and the guidelines of NUREG–0612 (to prevent impact by heavy loads with safe shutdown equipment) will continue to be met. The proposed change does not entail any physical alteration to the present plant configuration. There are no new precursors of an accident created and no new or different kinds of accidents are created.

3. The proposed change does not involve a significant reduction in a margin of safety.

There are no plant modifications required as a result of the proposed FSAR change. The proposed FSAR text changes correct inaccuracies partly resulting from incorrect original process descriptions. Since then, there have been significant changes to spent fuel cask handling and design requirements including the necessity for extended dry storage of spent fuel at independent spent fuel storage installations. With the proposed FSAR text changes incorporated, the FSAR will accurately describe actual plant configuration and processes related to spent fuel cask handling and the NRC certified Holtec HI-STORM 100 System.

The Columbia Generating Station reactor building crane is single-failure-proof and therefore no credible postulated failure of any crane component will result in dropping of the fuel cask and rupturing the fuel storage pool. A single-failure-proof crane obviates the need for an isolated spent fuel cask transfer pool. In addition, safe load paths are defined that keep the spent fuel cask away from irradiated fuel and safe shutdown equipment. This is in accordance with defense-in-depth approach as described in NUREG–0612, Section 5.2, "Bases for Guidelines".

The proposed FSAR change contains information about Columbia Generating Station spent fuel cask handling that has not been previously reviewed and approved by the NRC; however, there is no safety significance to this FSAR amendment request. The FSAR text corrections are in agreement with applicable regulations and no physical alteration to the plant configuration is required.

Therefore, this change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Section Chief: Stephen Dembek.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: February 20, 2001.

Description of amendment request: The proposed amendment revises the Columbia Generating Station Technical Specifications (TS) to remove selected operating mode restrictions for performing emergency diesel generator (DG) testing. This change will allow the DG testing to be performed during any plant operating mode. The proposed change removes the restriction associated with the following surveillance requirements (SRs) that prohibit performing the required DG testing during Modes 1 and 2.

1. SR 3.8.1.9: This SR requires demonstrating that the DG can reject its single largest load without the DG output frequency exceeding a specific limit.

2. SR 3.8.1.10: This SR requires demonstrating that the DG can reject its full load without the DG output voltage exceeding a specific limit.

3. SR 3.8.1.14: This SR requires starting and then running the DG continuously at or near full-load capability for greater than or equal to 24 hours.

The proposed change also removes the restriction associated with the following SRs that prohibits performing the required testing during Modes 1, 2, and 3.

1. SR 3.8.1.13: This SR requires demonstrating that the DG non-emergency (non-critical) automatic trips are bypassed on an actual or simulated emergency core cooling system (ECCS) initiation signal.

2. SR 3.8.1.17: This SR requires demonstrating that the DG automatic switchover from the test mode to ready-to-load operation is attained upon receipt of an ECCS initiation signal while maintaining availability of the offsite source.

The proposed change also allows the performance of SR 3.8.1.14 to satisfy SR 3.8.1.3 (monthly one-hour synchronized and loaded DG run) by adding a Note 5 to SR 3.8.1.3 that allows the endurance and margin test of SR 3.8.1.14 to be performed in lieu of load-run test in SR 3.8.1.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The DGs and their associated emergency loads are accident mitigating features, not accident initiating equipment. Therefore, there will be no impact on any accident probabilities by the approval of the requested amendment.

The design of plant equipment is not being modified by these proposed changes. As such, the ability of the DGs to respond to a design basis accident will not be adversely impacted by these proposed changes. The proposed changes do not result in a plant configuration change for performance of the additional testing different from that currently allowed by the Technical Specifications. In addition, experience and further evaluation of the probability of a DG being rendered inoperable concurrent with or due to a significant grid disturbance support the conclusion that the proposed changes do not involve any significant increase in the likelihood of a loss of safety bus. Therefore, there would be no significant impact on any accident consequences.

Based on the above, the proposed change to permit certain DG surveillance tests to be performed during plant operation will not involve a significant increase on accident probabilities or consequences.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new accident causal mechanisms would be created as a result of NRC approval of this amendment request since no changes are being made to the plant that would introduce any new accident causal mechanisms. Equipment will be operated in the same configuration currently allowed by other DG SRs that currently allow testing in plant Modes 1, 2 and 3. An interaction between the DG under test and the offsite power system that could lead to a consequential loss of safety bus during a grid disturbance is not deemed to be credible. This amendment request does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems.

Based on the above, implementation of the proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes to the testing requirements for the plant DGs do not affect the operability requirements for the DGs, as verification of such operability will continue to be performed as required (except during different allowed Modes). Continued verification of operability supports the capability of the DGs to perform their required function of providing emergency power to plant equipment that supports or constitutes the fission product barriers. Consequently, the performance of these fission product barriers will not be impacted by implementation of this proposed amendment.

In addition, the proposed changes involve no changes to setpoints or limits established or assumed by the accident analysis. On this and the above basis, no safety margins will be impacted. Therefore, implementation of the proposed changes would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 24, 2001.

Description of amendment request: The license amendment request consists of changes to the Technical Specifications (TSs) to revise the reactor vessel pressure/temperature (P/T or P–T) limits specified in TS 3.4.11, "RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits," for reactor heatup, cooldown, and critical operation, as well as for inservice leak and hydraulic tests for the RCS. Also, the current RCS P/T Limits in TS Figure 3.4–11, "Minimum Temperature Required Vs. RCS Pressure," would be replaced with recalculated RCS P/T limits based, in part, on an alternate methodology. The alternate methodology uses American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (B&PV) Code (Code) Case N–640, "Alternative Requirement Fracture Toughness for Development of P–T Limit Curves for ASME B&PV Code Section XI, Division 1," for alternate reference fracture toughness for reactor vessel materials in determining the P/T limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the River Bend [Station] reactor coolant system (RCS) pressure/temperature (P/T) limits do not modify the boundary, operating pressure, materials or seismic loading of the reactor coolant system. The proposed changes do adjust the P/T limits for radiation effects to ensure that the RPV [reactor pressure vessel] fracture toughness is consistent with analysis assumptions and NRC [Nuclear Regulatory Commission] regulations. An evaluation has been performed justifying the use of the methodology contained in Code Case N–640 to determine the P–T curve. The proposed P/T limits were determined using this methodology. Thus, the proposed changes do not involve a significant increase in the probability of occurrence of an accident previously evaluated. The proposed changes do not adversely affect the integrity of the reactor coolant pressure boundary such that its function in the control of radiological consequences is affected.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to the reactor pressure vessel pressure-temperature limits do not affect the assumed accident performance of any structure, system or component previously evaluated. The proposed changes do not introduce any new modes of system operation or failure mechanisms.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The methodology for determining the RCS P/T limits ensures that the limits provide a margin of safety to the conditions at which brittle fracture may occur. The methodology is based on requirements set forth in Appendix G and Appendix H of 10 CFR [Part] 50, with reference to the requirements and guidance of ASME Section XI, and on guidance provided in Regulatory Guide 1.99, Revision 2. The revised P/T limits are also based on this methodology except as modified by application of the noted Code Case. Although the Code Case constitutes relaxation from the current requirements of 10 CFR [Part] 50 Appendix G, the alternatives allowed by the Code are based on industry experience gained since the inception of the 10 CFR [Part] 50 Appendix G requirements for which some of the requirements have now been determined to be excessively conservative. The more appropriate assumptions and provisions allowed by the Code Case maintain a margin of safety that is consistent with the intent of 10 CFR [Part] 50 Appendix G, i.e., with regard to the margin originally contemplated by 10 CFR

[Part] 50 Appendix G for determination of RPV/RCS P/T limits.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: Robert A. Gramm.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 24, 2001.

Description of amendment request: The amendment request proposes that the River Bend Station Operating License be amended to change the limit on the Low Power Setpoint Limit specified by Technical Specifications 3.1.3 "Control Rod OPERABILITY," 3.1.6 "Control Rod Pattern," and 3.3.2.1 "Control Rod Block Instrumentation" from less than or equal to 20% reactor thermal power to less than or equal to 10% reactor thermal power.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change revises the setpoint from 20% to 10% rated power and does not affect the function, reliability or required surveillance frequency of the RPC [Rod Pattern Control] set forth in the Technical Specification. It does not constitute a safety significant change to the plant design or operation since the RPC and associated BPWS [Banked Position Withdrwawal Sequence] will continue to ensure site compliance with 10 CFR [Code of Federal Regulations Part] 100.

The RPC limits the incremental worth of control rods during reactor startup and shutdown. The BPWS allows continuous withdrawal from fully inserted to the fully withdrawn position for the first 25% of control rod density. The change in LPSP [Low Power Setpoint Limit] does not affect any of the parameters or conditions that contribute to initiation of the control rod drop accident since it is not the precursor of the accident. On this basis, change in the low power setpoint will not increase the probability of an accident previously evaluated.

The low power setpoint of the RPC is set so that the resultant peak fuel enthalpy due to the postulated rod drop accident shall be equal to or less than 280 cal/gm. For operation below the LPSP, systems are provided so that the design limit of 280 cal/gm is not exceeded for the design basis accident. Conformance to the 280 cal/gm design limit also ensures that the 10 CFR [Part] 100 offsite dose criteria will not be exceeded for the design basis accident. GE [General Electric] generic analysis demonstrates the radiological effect following a CRDA [Control Rod Drop Accident], for all current GE fuel design is within the guidelines set forth in 10 CFR [Part] 100. No River Bend specific analysis is necessary. On these bases, the proposed LPSP reduction does not significantly change the consequences of an accident previously evaluated.

2. The request does not create the possibility of occurrence of a new or different kind of accident from any accident previously evaluated.

The LPSP is set so that the resultant peak fuel enthalpy due to the postulated rod drop accident at power levels below the LPSP, shall be equal to or less than 280 cal/gm, ensuring compliance with 10 CFR [Part] 100 offsite dose criteria. The proposed change implements the reduction in LPSP from 20% to 10% of rated power without the addition of new hardware.

The change in LPSP does not affect any of the parameters or conditions that contribute to initiation of any accident since the LPSP is not the precursor of any accident. The LPSP is the point at which the RPCS [Rod Pattern Control System] switches between the RPC and RWL [Rod Withdrawal Limit] function. Periodic verification that it is within the allowable value is required. The proposed change does not affect the function and the reliability of the RPC, or the required surveillance frequency of Technical Specification LCO [Limiting Condition for Operation]. Furthermore, the reduction in setpoint can be implemented without the addition of new hardware. On this basis, reduction in the low power setpoint does not create the possibility of occurrence of a new or different accident.

3. The request does not involve a significant reduction in margin of safety.

Below the LPSP, mitigating systems and procedures are used to limit the consequences of a postulated CRDA. These involve a time consuming process of a series of controlled rod moves or steps. The setpoint change has the potential to impact the margin of safety and as such, a series of evaluations and under the worst case scenario were performed for a CRDA. NEDO–10527 demonstrates that a CRDA at or above 10% of rated power will always result in peak fuel enthalpies less than 280 cal/gm. These results assumed the worst single operator error, conservative Technical Specification scram times and rod drop velocity. This generic analysis also included the effect of core and fuel cycle design parameters such as the axial gadolinia distributions. The results indicate, that even for this worst case scenario, the resultant peak fuel enthalpy will always be less than 280 cal/gm, ensuring conformance with guidelines set forth in 10 CFR [Part] 100. Additional vendor analyses show that "Above approximately 10% power, the RDA cannot exceed 280 cal/gm because of the prompt Doppler feedback in the power range and the impossibility of achieving high rod reactivity worth with the relatively low rod density, even with erroneous rod patterns." Finally, the new models, which include moderator reactivity feedback, provide additional justification for the 10% of rated power LPSP. These methods indicate that the existence of any steam flow (i.e., power) will result in the CRDA results remaining below the design basis limit. Therefore, a LPSP limit of 10% is conservative relative to the new models. On these bases, the proposed reduction in the LPSP does not change the margin of safety significantly.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: Robert A. Gramm.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 24, 2001.

Description of amendment request: The request consists of a change to Technical Specification 3.6.1.3, "Primary Containment Isolation Valves (PCIVs)," to permit the operation of the Inclined Fuel Transfer System (IFTS) bottom valve after removal of the IFTS primary containment isolation blind flange while the containment is required to be operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change permits the operation of the IFTS Bottom valve after removal of the inclined fuel transfer system (IFTS) primary containment isolation blind flange when primary containment operability is required in MODE 1, 2, and 3. This will permit the full operation of the IFTS while the plant is operating. With respect to the probability of

an accident, this aspect of the containment structure does not directly interface with the reactor coolant pressure boundary. Operation of the IFTS bottom valve after the removal of the blind flange does not involve modifications to plant systems or design parameters that could contribute to the initiation of any accidents previously evaluated. Operation of IFTS is unrelated to the operation of the reactor, and there is no aspect of IFTS operation that could lead to or contribute to the probability of occurrence of an accident previously evaluated. Operation of the IFTS bottom valve during operation of IFTS system after removal of the blind flange does not result in changes to procedures that could impact the occurrence of an accident.

With respect to the issue of consequences of an accident, the function of the containment is to mitigate the radiological consequences of a loss of coolant accident (LOCA) or other postulated events that could result in radiation being released from the fuel inside containment. While the proposed change does not change the plant design, it does permit an alteration of the containment boundary for the IFTS penetration. Altering the containment boundary in this case (i.e., Opening the IFTS bottom valve) would not result in any additional IFTS components being subjected to containment pressure in the event of a LOCA. However, the additional post-accident peak pressure load to be imposed upon the components in the IFTS if the blind flange is removed is a small fraction of their design capability. Therefore, they are considered an acceptable barrier to prevent uncontrolled release of post-accident fission products for this proposed change.

As discussed in LAR [License Amendment Request] 1999–30, the proposed change required examination of two potential leakage pathways. The larger is the IFTS transfer tube, itself. The other, much smaller one, is a branch line used for draining the IFTS transfer tube during its operation. The bottom of the IFTS transfer tube is always water sealed, and maintained so by the submergence of the water in the transfer tube and in the fuel building spent fuel storage pool (the lower pool). The height of this water seal is greater than that necessary to prevent leakage from the bottom of the transfer tube during accidents that result in the calculated peak post-DBA [design basis accident] LOCA pressure, P_a. The potential leakage pathway from the drain piping that attaches to the transfer tube will be isolated if required, via administrative controls on the drain piping isolation valve. Additionally, as committed to in LAR 1999–30, the drain piping isolation valve will be added to the Primary Containment Leakage Rate Testing Program (Technical Specification 5.5.13) to ensure that leakage past this valve will be maintained consistent with the leakage rate assumptions of the accident analysis. Due to the test methodology, the portion of the large transfer tube piping outboard of the blind flange (the portion of the tube which becomes exposed to the containment atmosphere during the draining portion of the IFTS operation) will also be part of the leakage rate test boundary and will therefore also be tested. Therefore, no unidentified leakage will exist from the piping and components that are outboard of the blind flange, and the leakage rate assumptions of the accident analysis will be maintained.

Therefore, the proposed change does not result in a significant increase in the probability or the consequences of previously evaluated accidents.

2. The proposed changes would not create the possibility of a new or different kind of accident from any previous analyzed.

The proposed change consists of permitting operation of the IFTS Bottom valve after the removal of a the IFTS Blind Flange which is not part of the primary reactor coolant pressure boundary nor involved in the operation or shutdown of the reactor. Being passive, the presence or absence of the IFTS Blind Flanges does not affect any of the parameters or conditions that could contribute to the initiation of any incidents or accidents that are created from a loss of coolant or an insertion of positive reactivity. Realigning the boundary of the primary containment to include portions of the IFTS is also passive in nature and therefore has no influence on, nor does it contribute to the possibility of a new or different kind of incident, accident or malfunction from those previously analyzed. Furthermore, operation of the IFTS is unrelated to the operation of the reactor and there is no mishap in the process that can lead to or contribute to the possibility of losing any coolant from the reactor or introducing the chance for an insertion of positive or negative reactivity, or any other accidents different from and not bounded by those previously evaluated.

Therefore, the proposed change does not result in creating the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed change involves the operation of the IFTS Bottom Valve after realignment of the primary containment boundary by removing the blind flange which is a passive component. The margin of safety that has the potential of being impacted by the proposed change involves the dose consequences of postulated accidents which are directly related to potential leakage through the primary containment boundary. The potential leakage pathways due to the proposed change have been reviewed, and leakage can only occur from the administratively controlled IFTS transfer tube drain piping, and from the IFTS transfer tube itself. A dedicated individual will be designated to provide timely isolation of this drain piping during the duration of time when this proposed change is in effect. The conservatively calculated dose which might be received by the designated individual while isolating the drain piping is calculated to be 3.8 rem [roentgen equivalent man] TEDE [Total Effective Dose Equivalent], which remains within the guidelines of General Design Criterion (GDC) 19 (10 CFR [Code of Federal Regulations Part] 50, Appendix A, Criterion 19). Furthermore, the drain piping isolation valve will be added to the Primary Containment Leakage Rate Testing Program (Technical Specification 5.5.13) to ensure that leakage from the piping and components located outboard of the blind flange will be maintained consistent with the leakage rate assumptions of the accident analysis.

Studies of the capability of the IFTS system to withstand containment pressurization under severe accident conditions have been conducted. These studies conclude that IFTS, including the transfer tube and its valves, has a capability to withstand beyond design basis severe accident containment pressures which is greater than that of the containment structure itself. The RBS [River Bend Station] Emergency Operating Procedures (EOPs) are based on an ultimate containment failure pressure capability of 53 psig [pounds per square inch gauge], which represents a margin of safety of 38 psi [pounds per square inch] above the 15 psig containment design pressure.

This capability to withstand containment pressurization under severe accident conditions envelops other non-DBA LOCA scenarios, such as the small break LOCA. For the large break LOCA, additional defense-in-depth is provided by maintaining a water seal greater than P_a above the outlet of the IFTS transfer tube in the lower pool.

The RBS base LERF [Large Early Release Frequency] is 5.915E–9/yr. Removal of the blind flange increases the LERF by 6.315E–9/yr to 1.223E–8/yr. This increase in LERF is due to the reduced failure pressure of the IFTS tube. With the blind flange installed, the IFTS tube has a median failure pressure of approximately 80 psig. The IFTS tube was evaluated to withstand a pressure of 40 psig, with the blind flange removed. This lower IFTS failure pressure increases the probability of gross failure versus penetration failure at a given containment pressure. This shift in failure probability means that some of the less severe pressurization events (i.e. small hydrogen deflagrations) have a higher probability of causing a LERF. Based on the RBS PRA [Probabilistic Risk Assessment] Analysis, the operation of the bottom valve has no affect on LERF.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: Robert A. Gramm.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: February 14, 2001.

Description of amendment request: The amendment would modify the

Indian Point Nuclear Generating Unit No. 3 (IP3) Technical Specifications (TSs) to extend the allowed outage time (AOT) for the emergency diesel generators (EDGs) and the associated fuel oil storage tanks (FOSTs) from 72 hours to 14 days on a one-time basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed License amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed License amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The EDGs and their associated fuel oil systems are not part of any accident initiation; therefore there is no increase in the probability of an accident.

At a minimum, two EDGs are still available with sufficient fuel oil supply to mitigate IP3 design basis accidents. The minimum safeguards equipment can still be powered even if one EDG and FOST is assumed to be lost due to single failure. This has been verified by EDG loading calculation, IP3–CALC–ED–00207, "480V Bus 2A, 3A, 5A & 6A and EDGs 31, 32 and 33 Accident Loading". With the associated EDG available and aligned for automatic start capability (although declared inoperable) during this EDG FOST outage, further backup to the remaining two EDGs is provided. By the design of the overall EDG fuel oil system, the associated EDG fuel oil day tank is able to be supplied with sufficient fuel oil supply from either of the remaining two FOSTs, via their transfer pumps, in order to support operation of this associated EDG, if necessary.

To support fuel oil needs of all three EDGs, if necessary, the FSAR [final safety analysis report] describes that additional fuel oil supplies are available on the Indian Point site and locally near the site. Further EDG fuel oil supplies are available in the region, about 40 miles from IP3. Overall, the EDGs are designed as backup AC power sources in the event of a Loss of Offsite Power (LOOP). The proposed one-time AOT for each EDG/FOST does not change the conditions or minimum amount of safeguards equipment assumed in the safety analysis for design basis accident mitigation, since a minimum of two EDGs is assumed. No changes are proposed as to how the EDGs provide plant protection. Additionally, no new modes of overall plant operation are proposed as a result of this change. A PRA [probablistic risk assessment] evaluation determined that the conditional core damage probability (CCDP) for these scenarios is less than the threshold value of 1 E–6. Therefore, the proposed one-time license amendment to TS 3.7.B.1 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed License amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not introduce any new overall modes of plant operation or make any permanent physical changes to plant systems necessary for effective accident mitigation. The minimum required EDG operation remains unchanged by removal of a single FOST for repair. Additionally, added requirements to minimize risk associated with loss of offsite power also support this one-time extended AOT. Also, as previously stated, the EDGs and FOSTs are not part of any accident initiation scenario. Therefore the proposed one-time license amendment to TS 3.7.B.1 does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the proposed License amendment involve a significant reduction in a margin of safety?

No. The proposed License amendment does not involve a significant reduction in a margin of safety. The minimum safeguards loads can be maintained available if needed for design basis accident mitigation with two EDGs operable combined with their respective FOSTs. The selected, inoperable EDG will be available and aligned for automatic start capability (though declared inoperable) during this outage. The additional fuel oil needed to support three EDGs in this condition is available as indicated in the present design and licensing basis. The FSAR describes that this fuel can be provided from the Indian Point site, local sources and from a source about 40 miles away to support the additional 30,026 gallons TS required fuel oil, already existing at the Buchanan substation. Therefore, sufficient fuel oil will be available for potential events that could occur during this 14-day AOT. The PRA evaluation for the case of maintaining the 31, 32 or 33 EDG available (though declared inoperable) with its FOST out for repair indicates an acceptable safety margin below the risk-informed threshold of 1 E–6.

The 480VAC electrical distribution system can be fed from a number of TS independent 13.8kV and 138kV offsite power sources to minimize reliance of IP3 on EDG power sources during the extended AOT requested. Additional requirements to minimize risk associated with the potential for loss of offsite power sources within this TS change also ensure that this extended AOT does not involve a significant reduction in safety margin. On this basis, the proposed one-time license amendment to TS 3.7.B.1 does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Generating Station, 600 Rocky Hill Road, Plymouth, MA 02360.

NRC Section Chief: Marsha Gamberoni.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: January 25, 2001.

Description of amendment request: Entergy Operations, Inc. is proposing that the Grand Gulf Nuclear Station (GGNS) Operating License be amended to revise the GGNS Technical Specification (TS), Surveillance Requirement (SR) 3.1.4.2 to increase the control rod scram time testing interval from 120 days to 200 days of full power operation. The licensee also proposes to revise the associated TS Bases to reflect the proposed revision to the SR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not adversely impact plant operation. There will be no change in the method of performing the tests. The extended test frequency will provide some positive safety benefits by reducing the complexity of half of the control rod sequence exchange maneuvers, reducing the likelihood of a reactivity or fuel related event.

The actual rod insertion times and control rod reliability are not impacted by this proposed change; only the probability of detecting slow rods is impacted. The potential consequence of the proposed change is that one or more slow rods that would have been detected under the current 120-day frequency, may not be detected due to a reduced number of tests under the 200-day frequency.

Historical data shows that the GGNS control rod insertion function is highly reliable and rod insertion tests meet the scram time limits 99.84% of the time. Statistical analysis also demonstrates that the extended frequency would have little impact on the ability to detect slow rods in the sampling tests.

There is no safety consequence resulting from "slow" rods so long as the plant does not exceed the Technical Specification 3.1.4 Limiting Condition of Operation [LCO] requirement of no more than 14 slow rods in the entire core or no two OPERABLE "slow"

rods occupying adjacent positions. It is highly unlikely that a combination of missed detections and known "slow" rods would lead to the requirement to take action in accordance with TS 3.1.4. Therefore, it is highly unlikely that the reduction in test frequency would have any impact on plant operation or safety.

The analysis assumes that all 14 slow rods take 7 seconds to reach notch position 13 which is very conservative base on actual rod performance. Control rod data shows that rods that have failed the time requirements are usually only a fraction of a second slower. In the unlikely event that, due to the reduction of test frequency, the plant is unknowingly operating with one or two more slow rods than the 14 slow control rods permitted by the LCO, the consequences would still be insignificant. The low probability of MODE 1 operation with excess slow rods combined with the low consequence of a few excess slow rods, leads to the conclusion that the probability or consequences of accidents previously evaluated are not significantly increased.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change will make no change to plant configuration or test procedures. The proposed change does not impact the operation of the plant except to reduce the number of required tests and slightly increase the probability of failing to detect a slow control rod. Operating with possibly one or two undetected slow rods does not create the possibility of an accident, since sudden control rod insertion by scram only occurs during the mitigation of accidents.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The GGNS accident analyses assume a certain negative reactivity time function associated with scrams. So long as the LCO of Technical Specification 3.1.4 is met, that is, there are no more than 14 slow control rods in the entire core or two OPERABLE "slow" rods occupying adjacent locations, all accident analysis assumptions are met and there is no reduction in any margin of safety. The proposed change does not impact the Technical Specification LCO, or any other allowable operating condition. The potential for an increase in the probability of being outside acceptable operating conditions due to this proposed change is insignificant. Calculations have demonstrated that the likelihood of detecting four slow rods with proposed testing frequency over a fuel cycle is lower than that with the current testing frequency by a negligible amount (2E–07). The difference is even smaller for detecting greater number of slow rods over a cycle. Therefore, since there is no impact on allowable operating parameters and the likelihood of detecting significant numbers of slow rods is only negligibly affected, there is no significant reduction in a margin of safety.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: November 30, 2000.

Description of amendment request: The proposed amendment would revise the "Diesel Fuel Oil Testing Program" in technical specifications to relocate the specific American Society for Testing Materials (ASTM) standard reference from the Administrative Controls Section of TS to a licensee-controlled document, i.e., the Diesel Fuel Oil Program in the Technical Requirements Manual (TRM). In addition, the "clear and bright" test has been expanded to allow a water and sediment content test to establish the acceptability of new fuel oil. The proposed changes are consistent with changes previously approved by the Nuclear Regulatory Commission (NRC).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes relocate the specific diesel fuel oil related American Society for Testing and Materials (ASTM) Standard reference from the Administrative Controls Section of Technical Specifications (TS) to a licensee-controlled document, i.e., the Diesel Fuel Oil Program in the Technical Requirements Manual (TRM). The Braidwood Station and the Byron Station TRM is incorporated by reference in the Braidwood and Byron Stations' Updated Final Safety Analysis Report (UFSAR). Since any change to these licensee-controlled documents will be evaluated pursuant to the requirements of 10 CFR 50.59, "Changes, tests and experiments," no increase in the probability or consequences of an accident previously evaluated is involved. In addition, the "clear and bright" test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to allow a water and sediment content test to be performed to establish the acceptability of new fuel oil in lieu of the "clear and bright" test. We consider that the quantitative water and sediment test is equivalent to the qualitative clear and bright test.

Relocating the specific ASTM Standard references from the TS to a licensee-controlled document (i.e., the Diesel Fuel Oil Program in the TRM), and allowing a water and sediment content test to be performed to establish the acceptability of new fuel oil, will not affect nor degrade the ability of the safety-related diesel generators (DGs) (i.e., the Emergency DG and the Auxiliary Feedwater pump DG) to perform their specified safety function. Fuel oil quality will continue to meet ASTM requirements.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Braidwood and Byron Stations' UFSAR. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated in the Braidwood and Byron Stations' UFSAR.

Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind accident from any accident previously evaluated?

The proposed changes relocate the specific ASTM Standard reference from the Administrative Controls Section of TS to a licensee-controlled document, i.e., the Diesel Fuel Oil Program in the TRM. In addition, the "clear and bright" test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to allow a water and sediment content test to be performed to establish the acceptability of new fuel oil.

The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed changes relocate the specific ASTM Standard reference from the Administrative Controls Section of TS to a licensee-controlled document, i.e., the Diesel Fuel Oil Program in the TRM. Instituting the proposed changes will continue to ensure the use of current applicable ASTM Standards to evaluate the quality of both new and stored fuel oil designated for use in the safety-related DGs. The detail associated with the specific ASTM Standard reference is not required to be in the TS to provide adequate protection of the public health and safety, since the TS still retain the requirement for compliance with the applicable ASTM Standard. Changes to the TRM are evaluated in accordance with 10 CFR 50.59. Should it be determined that future changes involve a potential reduction in a margin of safety, NRC review and approval would be necessary prior to implementation of the changes. This approach provides an effective level of control and provides for a more appropriate change control process. In addition, the "clear and bright" test used to establish the acceptability of new fuel oil for use prior to addition to storage tanks has been expanded to allow a water and sediment content test to be performed to establish the acceptability of new fuel oil in lieu of the "clear and bright" test. The level of safety of facility operation is unaffected by the proposed changes since there is no change to the TS requirements intended to assure that fuel oil is of the appropriate quality for safety-related DG use. The proposed changes provide the flexibility needed to maintain state-of-the-art technology in fuel oil sampling and analysis methodology.

Therefore, the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 20, 2001.

Description of amendment request: The proposed amendments would increase the allowed outage time from 3 days to 14 days for a single inoperable Division 1 or 2 emergency diesel generator.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes include the extension of the completion time for the Emergency Diesel Generators (EDGs) from 72 hours to 14 days to allow on-line preventive maintenance to be performed. The EDGs are not initiators of previously evaluated postulated accidents. Extending the completion times of the EDGs would not have any impact on the frequency of any accident previously evaluated, and therefore the probability of a previously analyzed accident is unchanged. The proposed change to the completion time for EDGs will not result in any changes to the plant activities associated with EDG maintenance, but rather will enable a more efficient planning and scheduling of maintenance activities that will minimize potential adverse interactions with concurrent outage activities.

The consequences of a previously analyzed event are the same during a 72 hour EDG completion time as the consequences during a 14 day completion time. Thus the consequences of accidents previously analyzed are unchanged between the existing TS requirements and the proposed change. In the worst case scenario, the ability to mitigate the consequences of any accident previously analyzed is preserved. The consequences of an accident are independent of the time the EDGs are out-of-service. As a general practice, no other additional failures are postulated while equipment is inoperable within its TS completion time.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve a physical change to the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed changes will extend the allowable completion times for the Required Actions associated with restoration of an inoperable Division 1 or Division 2 EDG. The proposed 14 day EDG completion time is based upon both a deterministic evaluation and a risk-informed assessment. The availability of offsite power coupled with the availability of the opposite unit EDG via the unit cross-tie breaker and the use of the Configuration Risk Management Program (CRMP) provide adequate compensation for the potential small incremental increase in plant risk of the EDG extended completion time. In addition, the increased availability of the EDGs during refueling outage offsets the small increase in plant risk during operation. The proposed EDG extended completion times in conjunction with the availability of the opposite unit EDG continues to provide adequate assurance of the capability to provide power to the Engineered Safety Feature (ESF) buses. The risk assessment concluded that the increase in plant risk is small and consistent with the NRC's Safety Goal Policy Statement, "Use of Probabilistic Risk Assessment Methods in Nuclear Activities: Final Policy Statement," **Federal Register**, Volume 60, p. 42622, August 16, 1995, and guidance contained in Regulatory Guides (RG) 1.174, "An Approach for Using Probabilistic Risk Assessment In Risk-Informed Decisions On Plant-Specific Changes to the Licensing Basis," dated July, 1998, and RG 1.177, "An Approach for Plant-Specific, Risk-Informed Decision Making: Technical Specifications," dated August, 1998. Together, the deterministic evaluation and the risk-informed assessment provide high assurance of the capability to provide power to the ESF buses during the proposed 14 day EDG completion time.

Therefore, implementation of the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 21, 2001 (TS–265).

Brief description of amendment: The proposed amendment would revise the Crystal River Unit 3 (CR–3) Improved Technical Specifications (ITS) 3.3.8 to clarify the actions to be taken in the event that one or more channels of loss of voltage or degraded voltage Emergency Diesel Generator (EDG) start functions become inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91, the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The emergency diesel generator (EDG) loss of power start is not an initiator of any design basis accident. The EDG loss of power start is intended to protect engineered safeguards

equipment from damage due to sustained undervoltage conditions, and to ensure rapid restoration of power to the engineered safeguards electrical buses in the event of a loss of offsite power.

The proposed license amendment clarifies the actions to be taken in the event that one or more channels of the undervoltage or degraded voltage start Functions become inoperable. The design functions of the EDG loss of power start and the initial conditions for accidents that require an EDG loss of power start will not be effected by the change. Therefore, the change will not increase the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed amendment involves no changes to the design or operation of the EDG loss of power start. The proposed changes will ensure that the EDGs and engineered safeguards actuation system (ESAS) automatic initiation logic perform as assumed in the safety analysis in the event of a loss of offsite power. The proposed change will not affect other EDG or ESAS functions, and will not create any new plant configurations. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The proposed amendment clarifies the actions to be taken in the event one or more undervoltage or degraded voltage start Functions become inoperable. The proposed changes ensure appropriate actions are taken to restore the operability of the EDG loss of power start under these conditions. Thus, the proposed amendment will not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: R. Alexander Glenn, Associate General Counsel, Florida Power Corporation, MAC–A5A, P.O. Box 14042, St. Petersburg, Florida, 33733–4042.

NRR Section Chief: Richard P. Correia.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 (CR–3) Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 21, 2001 (TS–266).

Description of amendment request: The changes proposed revise various administrative actions, requirements, and responsibilities contained in Improved Technical Specifications (ITS) 2.0, Safety Limits, and ITS 5.0, Administrative Controls, to reflect the recent CR–3 Nuclear Operations re-organization and the amended requirements of 10 CFR 50.72, 10 CFR 50.73 and 10 CFR 50.59.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed license amendment deletes redundant administrative requirements contained in ITS 2.0, "Safety Limits" and updates position titles in ITS 5.0, "Administrative Controls," to reflect the current CR–3 Nuclear Operations organization. The design functions of the structures, systems and components at CR–3, and the initial conditions for the analyzed accidents at CR–3 will not be affected by the change. Therefore, the change will not increase the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different kind of accident from any accident previously analyzed.

The changes proposed by this amendment are administrative in nature. The proposed amendment involves no changes to the design, function or operation of any structure, system or component at CR–3 and will not result in any new plant configurations. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

The proposed changes are administrative in nature. The safety margins established through the design and facility license, including the CR–3 Improved Technical Specifications will not be changed by the proposed amendment. In addition, the proposed changes will ensure that administrative requirements and responsibilities contained in the ITS are consistent with the current CR–3 Nuclear Operations organization as described in the CR–3 Final Safety Analysis Report and the requirements specified in 10 CFR 50.72, 10 CFR 50.73 and 10 CFR 50.59. Thus, the proposed amendment will not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: R. Alexander Glenn, Associate General Counsel (MAC–BT15A), Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Section Chief: Richard P. Correia.

Indiana Michigan Power Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan

Date of amendment request: January 19, 2001.

Description of amendment request: The proposed amendment would extend surveillance intervals associated with the emergency diesel generators and station batteries to preclude a mid-cycle shutdown of the unit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The proposed license conditions do not affect or create any accident initiators or precursors. As such, the proposed license conditions do not increase the probability of an accident. The proposed license conditions do not involve operation of the required electrical power sources in a manner or configuration different from those previously recognized or evaluated.

The proposed EDG [emergency diesel generator] engine SR [surveillance requirement] revision involves deferral of the 4.8.1.1.2.e.1 requirement to the next refueling outage and does not reduce the required operable power sources of the Limiting Condition for Operation, does not increase the allowed outage time of any required operable power supplies, and does not reduce the requirement to know that the deferred SRs could be met at all times. Deferral of the testing does not increase by itself the potential that the testing would not be met. The monthly EDG engine starts, fuel level checks, and fuel transfer pump checks will continue to be performed to provide adequate confidence that the required EDG engine will be available if needed. Therefore, it is concluded that the required A.C. sources will remain available and the previously evaluated consequences will not be increased.

The deferral of the battery service tests described above to the refueling outage does not involve any physical changes to the plant or to the manner in which the plant is operated. Therefore, the probability of an accident previously evaluated is not increased. The weekly and quarterly testing, performance monitoring by the system manager, and the current condition of the batteries (e.g., above 100 percent capacity) provide assurance that battery condition and performance will not deteriorate during the deferral period. Therefore, the consequences of the analyzed accidents for CNP [Cook Nuclear Plant] will not be increased due to the deferral of these station battery SRs.

Therefore, based on the above discussion, it is concluded that the proposed amendment does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously analyzed?

The proposed license condition does not involve a physical alteration of the EDG engines or a change to the way the A.C. power system is operated. The proposed license condition does not involve operation of the required electrical power sources in a manner or configuration different from those previously recognized or evaluated. No new failure mechanisms of the A.C. power supplies are introduced by extension of the subject SR intervals.

The proposed license conditions for deferral of the station battery SRs listed above to the refueling outage do not involve any physical changes to the plant or to the manner in which the plant D.C. power systems are operated. No new failure mechanisms will be introduced by the SR deferral.

Therefore, the proposed license condition does not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. Does the change involve a significant reduction in a margin of safety?

Deferral of the specified EDG engine SR does not introduce by itself a failure mechanism, and past performance of the SR has demonstrated reliability in passing the deferred SRs. The required operable power supplies have not been reduced. Therefore, the availability of power supplies assumed for accident mitigation is not significantly reduced and previous margins of safety are maintained.

The deferral of the station battery SRs to the refueling outage does not involve any physical changes to the plant or to the manner in which the plant is operated. Continuing weekly and quarterly testing, performance monitoring, and the current condition of the batteries provides assurance that the battery condition and performance will be acceptable during the deferral period in that degradations that may occur will be detected. Therefore, the equipment response to accident conditions during the deferral period will not be affected. Thus, the one-time deferral of these 18-month battery service test SRs does not involve a significant reduction in a margin of safety.

In summary, based upon the above evaluation, I&M has concluded that the proposed amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: Claudia M. Craig.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: January 3, 2001.

Description of amendment request: The proposed amendment would terminate license jurisdiction for a portion of the Maine Yankee Atomic Power Station site, thereby releasing these lands from Facility Operating License No. DPR–36. The release of these lands will facilitate the donation of this property to an environmental organization pursuant to a Federal Energy Regulatory Commission-approved settlement between Maine Yankee Atomic Power Company and its ratepayers. The lands donated will be used to create a nature preserve and an environmental education center.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested license amendment involves release of land presently considered part of the Maine Yankee plant site under license DPR–36. The land in question is not used for any licensed activities. No radiological materials have historically been used on this land and the land will not be used to support ongoing decommissioning operations and activities.

Most of the land to be released is outside the Exclusion Area Boundary and therefore is not affected by the consequences of any postulated accident. A small portion of the land is within the Exclusion Area Boundary. Maine Yankee will retain sufficient control over activities performed within this land through rights granted in the legal land conveyance documents to ensure that there is no impact on consequences from postulated accidents. Therefore, the release of the land from the Part 50 license will not increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The requested amendment involves release of land presently considered part of the Maine Yankee plant site under license DPR–36. The land is not used for any licensed activities or decommissioning operations. The proposed action does not affect plant systems, structures or components in any way. The requested release of the land does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety defined in the statements of consideration for the final rule on the Radiological Criteria for License Termination is described as the margin between the 100 mrem/yr public dose limit established in 10 CFR 20.1301 for licensed operation and the 25 mrem/yr dose limit to the average member of the critical group at a site considered acceptable for unrestricted use. This margin of safety accounts for the potential effect of multiple sources of radiation exposure to the critical group. Additionally, the State of Maine, through legislation, has imposed a 10 mrem/yr all pathways limit, with no more than 4 mrem/yr attributable to drinking water sources. Since the survey results described in Attachments III and IV demonstrate compliance with the radiological criteria for license termination for unrestricted use and demonstrate compliance with the more stringent Maine Standard, therefore, the margin of safety will not be reduced as a result of the proposed release of the nonimpacted land. In fact, since the area is nonimpacted, by definition, there will be no additional dose to the average member of the critical group.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Attorney for licensee: Joseph Fay, Esquire, Maine Yankee Atomic Power Company, 321 Old Ferry Road, Wiscasset, Maine 04578.

NRC Section Chief: Robert A. Gramm.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of amendment request: February 5, 2001.

Description of amendment request: The licensee proposed to amend Section 3.6.1.3, "Primary Containment Isolation Valves," of the unit's Technical Specifications (TSs). Surveillance Requirement (SR) 3.6.1.3.9 currently requires verification of the actuation capability of each excess flow check valve (EFCV) at least once per 24 months. One proposed change will result in limiting the surveillance to only those EFCVs in instrumentation lines connected to the reactor coolant pressure boundary. The requirement for testing of EFCVs other than those in reactor instrumentation lines is proposed to be relocated to a licensee-controlled document. Another proposed change is to revise the SR by allowing a representative sample of reactor instrumentation line EFCVs to be tested every 24 months, such that each reactor instrumentation line EFCV will be tested every 10 years.

The associated licensee-controlled TSs Basis document would also be changed to reflect the above TSs changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the three standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The first standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to SR 3.6.1.3.9 will result in reduction in the frequency and scope of EFCV testing. No hardware design change is involved. While a postulated instrument line break accident was analyzed and evaluated as part of the design basis, no credit was given to EFCVs to limit or stop radioactive water through the ruptured instrument line. The EFCVs were not considered precursor of accidents in the unit's design basis. Accordingly, the revised scope and frequency of EFCV testing will lead to no increase in the consequences of an accident previously evaluated, and no increase of the probability of an accident previously evaluated.

The second standard requires that operation of the unit in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No hardware design change or procedural change is involved with the proposed changes to SR 3.6.1.3.9. The amendment would only relax the frequency and scope of EFCV testing. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The third standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. Since no design or procedural change is involved, the proposed changes to SR 3.6.1.3.9 will not affect in any way the performance characteristics and intended functions of systems and components (i.e., the instrument lines and instruments) served by the EFCVs. Therefore, the proposed changes to SR 3.6.1.3.9 do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Marsha Gamberoni.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of amendment request: February 27, 2001.

Description of amendment request: The licensee proposed to amend Technical Specifications (TSs) Section 3.3.8.2, "Reactor Protection System (RPS) Electric Power Monitoring—Logic," reducing the channel calibration allowable values for overvoltage from 133.8 V to 130.2 V (for Bus A), and to 129.8 V (for Bus B). The licensee also proposed to amend Section 3.3.8.3, "Reactor Protection System (RPS) Electric Power Monitoring—Scram Solenoids," reducing the channel calibration allowable values for overvoltage from 130.5 V (for Bus A) and 131.7 V (for Bus B) to 127.6 V. These proposed changes are in the conservative direction, reflecting the results of revisions to calculations to correct licensee-identified analysis deficiencies. The proposed reduced allowable values would be accompanied by an increase in channel calibration frequency from once per 24-months to once per 184 days.

The associated licensee-controlled TSs Basis document would also be changed to reflect the above TSs changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the three standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The first standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to Sections 3.3.8.2 and 3.3.8.3 will be made in a conservative direction. No hardware design change is involved, thus there will be no adverse effect on the functional performance of any plant structure, system, or component (SSC). All SSCs will continue to perform their design functions with no decrease in their capabilities to mitigate the consequences of postulated accidents. Accordingly, the revised allowable values and channel calibration frequencies will lead to no increase in the consequences of an accident previously evaluated, and no increase of the probability of an accident previously evaluated.

The second standard requires that operation of the unit in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No hardware design change or procedural change is involved with the proposed changes to these sections. The amendment does not involve any changes in design or performance of any SSC; all SSCs will continue to perform as previously analyzed by the licensee and previously accepted by the staff. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The third standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. Since no design or procedural change is involved, the proposed changes to Sections 3.3.8.2 and 3.3.8.3 will not affect in any way the performance characteristics and intended functions of any SSC. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Marsha Gamberoni.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment requests: October 30, 2000.

Description of amendment requests: The proposed amendments would allow modification of the eight double-leaf doors in the auxiliary building special ventilation zone. These doors serve as "blowout panels" in case of a high-energy line break (HELB) accident inside the auxiliary building. Currently, these doors are held in place by the resistance from the hinges and door center latch. The licensee proposes to install additional "breakaway" pins on these doors to increase the restraining forces upon these doors to minimize nuisance alarms from these doors. However, the licensee has determined that this modification did not meet the criteria of 10 CFR 50.59 and therefore requires prior NRC staff review and approval. These amendments do not involve changes to the Operating Licenses or the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. The addition of a ceramic latch pin in selected Auxiliary Building Special Ventilation Zone (ABSVZ) boundary doors will provide a small restraining force to hold the doors closed under typical operating conditions, but will snap under the pressures produced on the doors by a high-energy line break, thus allowing the doors to swing open and provide a relief path for steam discharge into the Auxiliary Building compartments during a HELB. Testing has established that the ceramic pins will breakaway under a load that is significantly lower than the differential pressure loading on the boundary doors assumed in the HELB analyses. In addition, improving the ability to keep these doors closed under normal operating conditions helps to assure maintenance of the ABSVZ boundary integrity assumed in the LOCA [loss-of-coolant accident] and offsite dose analyses. Thus it is concluded that the proposed changes do not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. Does operation of the facility with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

While the proposed modification alters the design of plant equipment, it does not alter the function or the manner of operation [of] any plant component and does not install any new or different equipment. During a HELB selected ABSVZ boundary doors are required to swing open to provide a steam relief path. The use of ceramic pins to restrain these doors against inadvertent opening during normal operations does not alter the accident mitigation function of these doors. Testing has established that these ceramic pins will break before the pressure in the Auxiliary Building reaches the relief point assumed in the HELB analyses. This situation does not create the possibility of a new or different kind of accident from those previously analyzed.

3. Does operation of the facility with the proposed amendment involve a significant reduction in a margin of safety?

Because testing has established that these ceramic pins will break before the pressure in the Auxiliary Building reaches the relief point assumed in the HELB analyses, the accident mitigation function of the ABSVZ boundary doors will be preserved. In the event of a HELB the ABSVZ boundary doors will swing open and provide a steam relief path. Thus avoiding any increased Auxiliary Building compartment pressures that might challenge the requirements on ventilation boundary leakage and block wall structural integrity established to maintain assurance of control room habitability.

Thus, the proposed change does not involve a significant reduction in the margin of safety associated with the safety limits inherent in either the principle barriers to a radiation release (fuel cladding, RCS [reactor coolant system] boundary, and reactor containment), or the maintenance of critical safety functions (subcriticality, core cooling, ultimate heat sink, RCS inventory, RCS boundary integrity, and containment integrity).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 14, 2001.

Description of amendment request: The proposed amendment would make minor changes to the Ginna Improved Technical Specifications (ITS) format to allow for maintaining, viewing, and publishing them with different software package. The proposed amendment would also revise the ITS section 5.5.13, "Technical Specifications Bases Control Program," to provide consistency with the changes to 10 CFR 50.59 as published in the **Federal Register** (64 FR 53582) dated October 4, 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Evaluation of Administrative Formatting Changes

The administrative changes associated with the minor revisions in the Ginna Station ITS format to allow for maintaining, viewing, and publishing them with different software package do not involve a significant hazards consideration as discussed below:

(1) Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes involve minor reformatting of the existing Improved Technical Specifications to provide compatibility with the software package that is proposed for maintenance of the electronic ITS files and do not include any technical issues. As such, these changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events. Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

(2) Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements. Thus, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

(3) Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes will not reduce a margin of safety because the changes do not impact any safety analysis assumptions. These changes are administrative in nature. As such, no question of safety is involved, and the changes do not involve a significant reduction in a margin of safety.

Based upon the preceding information, it has been determined that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed changes meet the requirements of 10 CFR 50.92(c) and do not involve a significant hazards consideration.

Evaluation of Administrative 10 CFR 50.59 Changes

The administrative changes associated with the revision to ITS section 5.5.13, "Technical Specifications (TS) Bases Control Program," to provide consistency with the changes to 10 CFR 50.59 do not involve a significant hazards consideration as discussed below:

(1) Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change deletes the reference to unreviewed safety question as defined in 10 CFR 50.59. Deletion of the definition of unreviewed safety question was approved by the NRC [Nuclear Regulatory Commission] with the revision of 10 CFR 50.59. Changes to the TS Bases are still evaluated in accordance with 10 CFR 50.59. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. Thus, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

(3) Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a

margin of safety. The proposed changes will not reduce a margin of safety because the changes do not impact any safety analysis assumptions. Changes to the ITS Bases that result in meeting the criteria in paragraph 10 CFR 50.59(c)(2) will still require NRC approval pursuant to 10 CFR 50.59. This change is administrative in nature based on the revision to 10 CFR 50.59. As such, no question of safety is involved, and the changes do not involve a significant reduction in a margin of safety.

Based upon the preceding information, it has been determined that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed changes meet the requirements of 10 CFR 50.92(c) and do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: Marsha Gamberoni.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: February 20, 2001.

Description of amendment request: The proposed license amendment would eliminate the security plan requirements from the 10 CFR Part 50 licensed site after the Rancho Seco spent nuclear fuel has been transferred from the spent fuel pool to the Independent Spent Fuel Storage Installation (ISFSI). Specific changes would include deleting Section 2.C(3) "Physical Protection" from Rancho Seco Facility Operating License No. DPR–54 and deleting all references in the Permanently Defueled Technical Specifications to the Rancho Seco Nuclear Generating Station security plans.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The physical structures, systems, and components of the Rancho Seco 10 CFR 50 licensed site and the operating procedures for their use are unaffected by the proposed change. The elimination of the security requirements from the 10 CFR Part 50 licensed site does not affect possible initiating events for accidents previously evaluated or alter the configuration or operation of the facility.

Elimination of the security requirements for the 10 CFR Part 50 license is predicated upon completion of the transfer of all nuclear fuel from the spent fuel pool to the ISFSI. The planned 10 CFR 72 licensing controls for the ISFSI will provide adequate confidence that personnel and equipment can perform satisfactorily for normal operations of the ISFSI and respond adequately to off-normal and accident events. The Rancho Seco Physical Protection Plan (PPP) will also provide confidence that security personnel and safeguards systems will perform satisfactorily to ensure adequate protection for the storage of spent nuclear fuel. Therefore, the proposed 10 CFR Part 50 amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change is security related and has no direct impact on plant equipment or the procedures for operating plant equipment. The safety analysis for the facility remains complete and accurate. There are no physical changes to the facility, and the plant conditions for which the design basis accidents have been evaluated are still valid.

Because the ISFSI site is segregated from the 10 CFR Part 50 licensed site, licensed security activities under the 10 CFR Part 50 license will no longer be necessary after all the nuclear fuel has been moved. The planned 10 CFR 72 licensing controls for the ISFSI will provide adequate confidence that personnel and equipment can perform satisfactorily for normal operations of the ISFSI and respond adequately to off-normal and accident events. Moreover, the ISFSI will be physically separate from the 10 CFR 50 licensed site structures and equipment. Therefore, the proposed 10 CFR Part 50 license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

No. As described above, the proposed change is security related and has no direct impact on plant equipment or the procedures for operating plant equipment. There are no changes to the design or operation of the facility.

The assumptions for fuel handling and other accidents are not affected by the proposed license amendment. Accordingly, neither the design basis nor the accident assumptions in the Defueled Safety Analysis Report (DSAR), nor the PDTS Bases are affected. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Dana Appling, Esq., Sacramento Municipal Utility District, P.O. Box 15830, Sacramento, California 95852–1830.

NRC Section Chief: Stephen Dembek.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: May 17, 2000, as supplemented by letters dated August 31, 2000, and January 31, 2001.

Brief description of amendments: The proposed amendments would revise the Allowable Values specified in Technical Specification (TS) Table 3.3.5–1, "Loss of Power (LOP) Diesel Generator (DG) Start Instrumentation" to ensure that the 6.9 kiloVolt (kV) and 480 Volt (V) undervoltage relays initiate the necessary actions when required. In addition, a proposed administrative change to Condition D of TS 3.3.5, would eliminate the term "undervoltage," consistent with the proposed changes to TS Table 3.3.5–1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

The proposed License Amendment Request includes more restrictive Allowable Values for the Preferred offsite source bus undervoltage function, the Alternate offsite source bus undervoltage function, the 6.9 kV Class 1E bus loss of voltage function, the 6.9 kV Class 1E bus degraded voltage function and the 480 V Class 1E bus degraded voltage function. These more restrictive values assure that all applicable safety analysis limits are being met. The 480 V low grid undervoltage relay allowable value is being lowered to the same as the 480 V degraded voltage relays which matches its function. This is a less restrictive value but the value still assures that all applicable safety analysis limits are being met. Lowering of the 480 V low grid undervoltage allowable value will minimize unnecessary actuations that could challenge plant systems. Changing the 6.9 kV and 480 V degraded voltage, 480 V low grid undervoltage, the 6.9 kV loss of voltage, and the preferred and alternate bus undervoltage

Allowable Values in the TSs has no impact on the probability of occurrence of any accident previously evaluated. Because all accident analyses continue to be met, these changes do not impact the consequences of any accident previously evaluated.

Removal of the lower limit for the 6.9 kV Class 1E bus loss of voltage relays does not impact the probability of occurrence of any accident previously evaluated. None of the accident analyses are affected; therefore, the consequences of all previously evaluated accidents remain unchanged.

The proposed administrative change to Condition D of TS 3.3.5, which would eliminate the term "undervoltage," consistent with the proposed changes to TS Table 3.3.5–1 is administrative in nature. None of the accident analyses are affected; therefore, the probability and consequences of all previously evaluated accidents remain unchanged.

None of the changes to TS Table 3.3.5–1 affect plant hardware or the operation of plant systems in a way that could initiate an accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed administrative change to Condition D of TS 3.3.5, which would eliminate the term "undervoltage," consistent with the proposed changes to TS Table 3.3.5–1 is administrative in nature. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

There were no changes made to any of the accident analyses or safety analysis limits as a result of this proposed change. Further, the proposed change does not affect the acceptance criteria for any analyzed event. Removal of the lower limit for the 6.9 kV Class 1E bus loss of voltage relays does not change the margin of safety. Each allowable value, as revised, assures the safety analysis limits assumed in the safety analyses as discussed in Chapter 15 of the Final Safety Analysis Report is maintained. The margin of safety established by the Limiting Conditions for Operation also remains unchanged. Thus there is no effect on the margin of safety.

The proposed administrative change to Condition D of TS 3.3.5, which would eliminate the term "undervoltage," consistent with the proposed changes to TS Table 3.3.5–1 is administrative in nature. Thus there is no effect on the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application request: February 15, 2001 (ULNRC–4391).

Description of amendment request: The proposed amendment would delete paragraph d.1.j(2) in Technical Specification (TS) 5.5.9, "Steam Generator (SG) Tube Surveillance Program," that requires all SG tubes containing an Electrosleeve, a Framatome proprietary process, to be removed from service within two operating cycles following installation of the first Electrosleeve. This requirement was incorporated in TS 5.5.9 in Amendment No. 132 issued May 21, 1999. The first Electrosleeve tube was installed in the Fall of 1999 and the two-cycle allowance will expire in the Fall of 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would remove the restriction that requires all steam generator tubes repaired with Electrosleeves to be removed from service at the end of two operating cycles following installation of the first Electrosleeve. This would allow all steam generator tubes repaired with Electrosleeves to remain in service. Reference 2 [licensee's letter dated October 27, 1998] concluded that there was no significant increase in the probability or consequences of an accident previously evaluated when using the Electrosleeve repair method. The two operating cycle restriction was invoked because the NRC staff concluded that the UT [ultrasonic] methods used to perform NDE [nondestructive examination] for inservice inspections of the Electrosleeved tubes could not reliably depth size stress corrosion cracks to ensure that structural limits are maintained.

Revision 4 to topical report BAW–10219P [nonproprietary version is attached to the application] has addressed the concerns that resulted in the restriction of two operating cycles and consequently, the probability of an accident previously evaluated is not significantly increased. As a result, the consequences of any accident previously evaluated are not affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing plant operation. Reference 2 concluded that the use of the Electrosleeve repair method did not create the possibility of a new or different kind of accident from any accident previously evaluated when using this method to repair steam generator tubes. This proposed change removes the two operating cycle limit for the Electrosleeved tubes based on the evaluations and justifications of the NDE techniques used to perform inservice examinations of the Electrosleeved steam generator tubes provided in Revision 4 of the topical report.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not affect the acceptance criteria for an analyzed event. The margin of safety presently provided by the structural integrity of the steam generator tubes remains unchanged. Reference 2 concluded that the use of the Electrosleeve repair method did not involve a significant reduction in a margin of safety when using this method to repair steam generator tubes. The proposed change removes the two operating cycle limit based on the evaluations and justifications presented in Revision 4 of the topical report.

Therefore, the proposed change does not involve a reduction in a margin of safety.

The reference to "Reference 2" in the criteria above is a reference to the licensee's letter dated October 27, 1998, and the no significant hazards consideration (NHSC) in that letter, which was published in the **Federal Register** (63 FR 66604) on December 2, 1998. This NHSC is applicable to the current application because it applies to the use of Electrosleeved steam generator tubes, the subject of the current application.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Section Chief: Stephen Dembek.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Units No. 1 and No. 2, Surry County, Virginia

Date of amendment request: December 7, 2000. This amendment request supersedes the November 29, 1999, request in its entirety. The November 29, 1999, request was noticed on March 22, 2000 (65 FR 15388).

Description of amendment request: The proposed changes will modify the Technical Specifications (TS) in Section 3.23 for the Main Control Room and Emergency Switchgear Room Ventilation and Air Conditioning Systems; TS Surveillance Requirement Section 4.20 for the Control Room Air Filtration System; and TS Surveillance Requirement Section 4.12 for the Auxiliary Ventilation Exhaust Filter Trains. The proposed changes will revise the above Surveillance Requirements for the laboratory testing of the carbon samples for methyl iodide removal efficiency to be consistent with American Society for Testing and Materials (ASTM) Standard D3803–1989, "Standard Test Method for Nuclear-Graded Activated Carbon," with qualification as the laboratory testing standard for both new and used charcoal adsorbent used in the ventilation system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Operation of Surry Units 1 and 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes only modify surveillance testing requirements and do not affect plant systems or operation and therefore do not increase the probability or the consequences of an accident previously evaluated. The proposed surveillance requirements adopt ASTM D–3803–1989, with qualification, as the laboratory method for testing samples of the charcoal adsorber for methyl iodide removal efficiency consistent with NRC's Generic Letter 99–02. This method of testing charcoal adsorbers provides an acceptable approach for determining methyl iodide removal efficiency and ensuring that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle. There is no change in the method of plant operation or system design with this change.

Criterion 2—The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes only modify surveillance testing requirements and do not impact plant systems or operations and therefore do not create the possibility of an accident or malfunction of a different type than evaluated previously. The proposed surveillance requirements adopt ASTM D3803–1989, with qualification, as the laboratory method for testing samples of the charcoal adsorber for methyl iodide removal efficiency. This change is in response to NRC's request in Generic Letter 99–02. There is no change in the method of plant operation or system design. There are no new or different accident scenarios, transient precursors, nor failure mechanisms that will be introduced.

Criterion 3—The proposed license amendment does not involve a significant reduction in a margin of safety.

The proposed changes only modify surveillance test requirements and do not impact plant systems or operations and therefore do not significantly reduce the margin of safety. The revised surveillance requirements adopt ASTM D3803–1989, with qualification, as the laboratory method for testing samples as the charcoal adsorber for methyl iodide removal efficiency. The 1989 edition of this standard imposes stringent requirements for establishing the capability of new and used activated carbon to remove methyl iodide from air and gas streams. The results of this test provide a more conservative estimate of the performance of nuclear-graded activated carbon used in nuclear power plant HVAC systems for the removal of methyl iodide. The laboratory test acceptance criteria contain a safety factor to ensure that the efficiency assumed in the accident analysis is still valid at the end of the operating cycle.

This evaluation concludes that the proposed amendment to the Surry Units 1 and 2 Technical Specifications does not involve a significant increase in the probab[ility] or consequences of a previously evaluated accident, does not create the possibility of a new or different kind of accident and does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief (Acting): M. Banerjee.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: December 12, 2000, as supplemented January 8 and February 22, 2001.

Description of amendment request: The proposed changes would revise Technical Specification (TS) 3.17.4 and 3.17.5 and the appropriate Bases. The proposed changes will acknowledge the establishment of seal injection for the reactor coolant pump in an isolated and drained loop as a prerequisite for the vacuum-assisted backfill technique. Also, the proposed changes include additional limiting conditions for operation and surveillance requirements for the sources of borated water used during loop backfill, and revised reactivity controls for an isolated-filled loop.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification limiting conditions for operation and surveillance requirements ensure that the initiation of seal injection in order to allow a partial vacuum to be established in an isolated and drained loop will not create the potential for an inadvertent/undetected introduction of under-borated water into an isolated loop prior to returning the isolated loop to service. The proposed Technical Specification controls prevent any additions of makeup or seal injection that would violate the existing shutdown margin requirements for the active portion of the Reactor Coolant System. Thus, adequate Technical Specification controls are established to preclude an inadvertent/undetected positive reactivity addition event. Therefore, there is no increase in the probability or consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no modifications to the plant as a result of the changes. The proposed Technical Specification Limiting Conditions for Operation and Surveillance Requirements ensure that the initiation of seal injection will not create an undetected positive reactivity addition. No new accident or event initiators are created by the initiation of seal injection for the RCP [reactor coolant pump] in the isolated loop in order to establish a partial vacuum in that isolated and drained loop. Therefore, the proposed changes do not create the possibility of any accident or malfunction of a different type previously evaluated.

3. Does the change involve a significant reduction in the margin of safety as defined in the bases on any Technical Specifications.

The proposed changes have no effect on safety analyses assumptions. Rather, the proposed changes acknowledge the establishment of seal injection for the RCP in the isolated and drained loop as a prerequisite for the vacuum-assisted backfill technique. The proposed Technical Specification Limiting Conditions for Operation and Surveillance Requirements ensure that the initiation of seal injection in order to allow a partial vacuum to be established in an isolated and drained loop will not create the potential for an inadvertent/undetected introduction of under-borated water into an isolated loop prior to returning the isolated loop to service. Adequate Technical Specifications controls

are established to preclude an inadvertent/undetected positive reactivity addition event. In addition, the proposed controls prevent any additions of makeup or seal injection that would violate the existing shutdown margin requirements for the active portion of the Reactor Coolant System. Therefore, the proposed changes do not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Irwin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Section Chief (Acting): M. Banerjee.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Tennessee Valley Authority, Docket No. 50–260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendments: February 5, 2001 (TS–413).

Brief description of amendments: Changes the Reactor Vessel Material Surveillance schedule to allow a one-cycle delay in removal of the second capsule.

*Date of publication of individual notice in the **Federal Register:*** February 28, 2001 (66 FR 12818).

Expiration date of individual notice: March 30, 2001.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Exelon Generation Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: September 5, 2000, as supplemented January 17, 2001.

Brief description of amendments: The amendments revised Surveillance Requirement 4.6.3.4 to allow a representative sample of reactor instrumentation line excess flow check valves (EFCVs) to be tested every 24 months, instead of testing each EFCV every 24-months.

Date of issuance: As of date of issuance and shall be implemented within 30 days.

Effective date: February 23, 2001.

Amendment Nos.: 148 and 110.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** January 10, 2001 (66 FR 2021).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 23, 2001.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: November 9, 2000.

Brief description of amendment: By letter dated November 9, 2000, FirstEnergy Nuclear Operating Corporation (FENOC), requested a Technical Specification change for Davis-Besse Nuclear Power Station (DBNPS), Unit 1. The proposed Technical Specification (TS) changes would relocate Technical Specification 3/4.4.9.2, Reactor Coolant System—Pressurizer, to the Davis-Besse Nuclear Power Station (DBNPS) Technical Requirements Manual (TRM). The TRM is a DBNPS controlled document which has been incorporated into the Davis-Besse Updated Safety Analysis Report (USAR).

Date of issuance: February 27, 2001.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 245.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 27, 2000 (65 FR 81919).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 27, 2001.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: April 5, 2000, as supplemented by letter dated January 15, 2001.

Brief description of amendment: This amendment implements technical specification (TS) changes associated with thermo-hydraulic stability monitoring. New TS 3.3.1.3, "Oscillation Power Range Monitor

(OPRM) Instrumentation," is added, providing the minimum operability requirements for the OPRM channels, the Required Actions when they become inoperable, and appropriate surveillance requirements. The amendment also removes monitoring guidance from TS 3.4.1, "Recirculation Loops Operating," that will no longer be necessary due to the activation of the OPRM instrumentation, and updates TS 5.6.5, "Core Operating Limits Report (COLR)," to require the applicable setpoints for the OPRMs to be included in the COLR.

Date of issuance: February 26, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 118.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 31, 2000 (65 FR 34745).

The supplemental information contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 26, 2001.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 1, 2000.

Brief description of amendment: The Technical Specification (TS) Section 3.4.14, "RCS Leak Detection Instrumentation, Surveillance Requirements," was changed to extend the calibration interval of the containment sump monitor to 24 months.

Date of issuance: March 7, 2001.

Effective date: March 7, 2001.

Amendment No.: 195.

Facility Operating License No. DPR–72: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** July 12, 2000 (65 FR 43048).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: October 30, 2000.

Brief description of amendment: This amendment revises Technical Specification (TS) Limiting Condition For Operation 3.9.4.b to allow both doors of the containment personnel airlock to be open during core alterations if: (1) at least one personnel airlock door is capable of being closed, (2) the plant is in Mode 6 with at least 23 feet of water above the fuel in the reactor core, and (3) a designated individual is available outside the personnel airlock to close the door.

Date of Issuance: February 27, 2001.

Effective Date: February 27, 2001.

Amendment No.: 172.

Facility Operating License No. DPR–67: Amendment revised the TS.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81920).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 27, 2001.

No significant hazards consideration comments received: No.

GPU Nuclear, Inc. and Saxton Nuclear Experimental Corporation, Docket No. 50–146, Saxton Nuclear Experimental Facility (SNEF), Bedford County, Pennsylvania

Date of application for amendment: November 30, 2000 and supplemented on January 18, 2001.

Brief description of amendment: The amendment changes the Amended Facility License to reflect the change in the legal name of GPU Nuclear Corporation to GPU Nuclear, Inc. wherever it appears in the license.

Date of Issuance: March 8, 2001.

Effective date: The license amendment is effective as of its date of issuance.

Amendment No.: 17.

Amended Facility License No. DPR–4: The amendment revised the Amended Facility License.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2010). The Commission's related evaluation of the amendment is contained in a safety evaluation dated March 8, 2001.

No significant hazards consideration comments received: No.

GPU Nuclear, Inc., Docket No. 50–320, Three Mile Island Nuclear Station, Unit 2, Dauphin County, Pennsylvania

Date of amendment request: November 5, 1999, as supplemented by electronic mail dated March 22 and letter dated September 28, 2000.

Brief description of amendment request: The amendment revises technical specification requirements to submit biennial reports every 24-months instead of prior to March 1 of every other year. It also eliminates the requirements to notify the Nuclear Regulatory Commission (NRC) of exceeding environmental limits and changes to environmental permits such as the National Pollution Discharge Elimination System permit. The licensee's November 5, 1999, submittal proposed revising technical specifications dealing with eliminating notifying the NRC for exceeding limits of minor permits where there is no identifiable environmental or public health concerns and exceptional occurrences (unusual or important events, exceeding limit of relevant permits). Since additional information would be required to continue this part of the review, the licensee withdrew this portion of their original application dated November 5, 1999, and replaced it in its entirety with a supplemental letter dated September 28, 2000.

Date of issuance: March 1, 2001.

Effective date: Immediately, to be implemented within 120 days.

Amendment No.: 55.

Facility Operating License No. DPR–73: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 12, 2000 (65 FR 1924). The September 28, 2000, supplemental letter replaced in its entirety the licensee's original application dated November 5, 1999. The supplement did not expand the scope of the original request, nor did it change the proposed no significant hazards consideration finding. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 2001.

No significant hazards consideration comments received: No.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 30, 2000, as supplemented on September 22 and November 20, 2000; and January 26 and February 1, 2001.

Brief description of amendment: This amendment changes the Millstone Nuclear Power Station, Unit No. 3 licensing basis. The amendment authorizes changes to the Final Safety Analysis Report (FSAR) regarding the installation of a new sump pump system in the engineered safety features building.

Date of issuance: February 26, 2001.

Effective date: As of the date of issuance and shall be implemented

within 30 days from the date of issuance.

Amendment No.: 195.

Facility Operating License No. NPF–49: Amendment authorizes changes to the FSAR.

Date of initial notice in ***Federal Register:*** October 18, 2000 (65 FR 62388).

The September 22 and November 20, 2000, and January 26 and February 1, 2001, letters provided clarifying information that did not change the scope of the amendment or the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 26, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: November 29, 1999, as supplemented November 10 and December 15, 2000.

Brief description of amendment: The amendment revises the Kewaunee Nuclear Plant Technical Specifications to incorporate requested changes per Generic Letter 99–02, "Laboratory Testing of Nuclear-Grade Activated Charcoal," dated June 3, 1999.

Date of issuance: February 28, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 152.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77921).

The supplemental information contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 28, 2001.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 28, 2000, as supplemented by letter dated December 14, 2000.

Brief description of amendment: The amendment revises Sections 2.1.4, 3.1, 3.17, Table 3–13, Table 3–14, and associated Bases of the Fort Calhoun Station Technical Specifications to allow the installation of ABB Combustion Engineering leak tight sleeves as an alternative tube repair method to plugging defective steam generator tubes.

Date of issuance: March 1, 2001.

Effective date: March 1, 2001, and shall be implemented within 30 days from the date of issuance.

Amendment No.: 195.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 18, 2000 (65 FR 62388).

The December 14, 2000, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 2001.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: November 30, 2000.

Brief description of amendments: The amendments revise Technical Specification (TS) 5.5.14, "Technical Specifications (TS) Bases Control Program" to reflect the changes made to 10 CFR 50.59 as published in the **Federal Register** on October 4, 1999 (Volume 64, Number 191, "Changes, Tests, and Experiments," pages 53582 through 53617). A conforming change is made to TS 5.5.14 to replace the word "involve" with the word "require," as it applies to changes to the TS Bases without prior NRC approval.

Date of issuance: March 2, 2001.

Effective date: March 2, 2001, and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1–145; Unit 2–144

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000 (65 FR 81928)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 2001.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 6, 2000.

Brief description of amendments: The amendments revised Section 5.0 of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 Technical Specifications to change management titles from (a) "Vice President, Diablo Canyon Operations and Plant Manager" to "plant manager," (b) "Senior Vice President and General Manager—Nuclear Power Generation" to "specified corporate officer," (c) "Radiation Protection Director" to "radiation protection manager," and (d) "Operations Director" to "operations manager."

Date of issuance: March 7, 2001.

Effective date: March 7, 2001, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–146; Unit 2–145.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 24, 2001 (66 FR 7685).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 7, 2001.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: February 29, 2000 (submitted by PP&L, Inc., the licensee before July 1, 2000).

Brief description of amendments: The amendments incorporated a reference to Supplement 3 "Application Enhancements" for the approved Topical Report PL–NF–90–001–A, "Application of Reactor Analysis Methods for BWR [Boiling Water Reactor] Design and Analysis," into TS 5.6.5, Core Operating Limits Report.

Date of issuance: February 28, 2001.

Effective date: As of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 189 and 163.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 18, 2000 (65 FR 62390).

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated February 28, 2001.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: March 20, 2000 (submitted by PP&L, Inc., the licensee before July 1, 2000), as supplemented December 1, 2000, and January 22, 2001 (submitted by PPL Susquehanna, LLC, the licensee on and after July 1, 2000).

Brief description of amendment: The amendment revised the minimum critical power ratio safety limits.

Date of issuance: March 6, 2001.

Effective date: As of date of issuance and shall be implemented upon startup following the Unit 2 tenth refueling and inspection outage.

Amendment Nos.: 164.

Facility Operating License No. NPF–22. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77924).

The supplemental letters provided additional information but did not change the initial no significant hazards consideration determination or expand the amendment beyond the scope of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 6, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: November 3, 2000, as supplemented February 1, 2001.

Brief description of amendments: The amendments revise Technical Specification 5.5.11, "Technical Specification Bases Control Program," to provide consistency with the changes to 10 CFR 50.59 which were published in the **Federal Register** (64 FR 53582) on October 4, 1999.

Date of issuance: March 6, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 224 and 165.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77925).

The supplement dated February 1, 2000, provided clarifying information that did not change the scope of the November 3, 2000, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: November 16, 2000, as supplemented on January 11, 2001.

Brief description of amendments: The amendments revised the Technical Specifications (TS) 5.5.14, "Technical Specification Bases Control Program" to provide consistency with the changes to 10 CFR 50.59 as published in the **Federal Register** (64 FR 53582) dated October 4, 1999. Specifically, the amendments remove the term "unreviewed safety question" from TS 5.5.14.b.2. In addition, two editorial corrections are also made on page 5.5–18.

Date of issuance: March 1, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 118 and 96.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 13, 2000 (65 FR 77927).

The supplemental letter dated January 11, 2001, provided clarifying information that did not change the scope of the November 16, 2000, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket No. 50–499, South Texas Project, Unit 2, Matagorda County, Texas

Date of amendment request: February 21, 2000, as supplemented by letters dated January 24 and 30, and February 28, 2001. The January 24 and 30, and February 28, 2001 letters, provided additional clarifying information that was within the scope of the original application and **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration.

Brief description of amendments: The Amendment revises the Technical Specifications (TSs) approving the application of the 3-volt repair criteria to the methodology for repair of steam generator (SG) tubes. The new criteria will apply for Unit 2 Cycle 9 only.

Date of issuance: March 8, 2001.

Effective date: The Amendment is effective on the date of issuance.

Amendment No.: 114.

Facility Operating License No. NPF–80: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 22, 2000 (65 FR 15386).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2001.

No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: September 6, 2000, as supplemented by letters dated December 14, 2000, and January 25, 2001.

Brief description of amendments: The amendment changes Comanche Peak Electric Station (CPSES), Units 1 and 2, Technical Specification (TS) 5.5.9, "Steam Generator (SG) Tube Surveillance Program," to permit installation of laser welded tubes sleeves in CPSES Unit 1 steam generator as an alternative to plugging defective tubes, and TS 5.6.10, "Steam Generator Tube Inspection Report," is revised to address reporting requirements for repaired tubes. Also an editorial correction is made to Table 5.5–2.

Date of issuance: February 20, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 83 and 83.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 1, 2000 (65 FR 65350).

The supplemental letters dated December 14, 2000, and January 25, 2001, provided additional information that clarified the application, did not

expand the scope of the application, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 20, 2001.

No significant hazards consideration comments received: No.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: December 6, 2000.

Brief description of amendments: The amendments revise Technical Specification (TS) 5.5.14, "Technical Specifications (TS) Bases Control Program" and TS 5.5.17, "Technical Requirements Manual (TRM)" to reflect the changes made to 10 CFR 50.59 as published in the **Federal Register** on October 4, 1999 (Volume 64, Number 191, "Changes, Tests, and Experiments," pages 53582 through 53617). A conforming change is made to TS 5.5.14 and 5.5.17 to replace the word "involve" with the word "require," as it applies to changes to the TS Bases or TRM without prior Nuclear Regulatory Commission approval.

Date of issuance: March 5, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 84 and 84.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2024).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 5, 2001.

No significant hazards consideration comments received: No.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 5, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: March 29, 2000, as supplemented December 6, 2000, and March 1, 2001.

Brief Description of amendments: These amendments revise TS Sections 3.19 and 4.1. The changes specify the requirements for two redundant trains of bottled air, specify remedial actions when one train or both trains are inoperable, eliminate the extension of the allowed outage and remedial action time of 8 hours to 24 hours currently permitted by TS 3.19.B, specify remedial actions for an inoperable control room pressure boundary, and include additional surveillance testing requirements. The Bases sections for TS 3.19 and TS 4.1 are revised for consistency with the respective TS.

Date of issuance: March 9, 2001.

Effective date: March 9, 2001.

Amendment Nos.: 223 and 223.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 9, 2000 (65 FR 48761). The December 6, 2000, and March 1, 2001, supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 9, 2001.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 7, 2000.

Brief description of amendment: The amendment deletes Technical Specifications (TS) Section 5.5.3, "Post Accident Sampling System," for Wolf Creek Generating Station and thereby eliminates the requirements to have and maintain the post-accident sampling system. The amendment also revises TS Section 5.5.2, "Primary Coolant Sources Outside Containment," to reflect the elimination of PASS.

Date of issuance: March 2, 2001.

Effective date: March 2, 2001, and shall be implemented on or before December 1, 2001.

Amendment No.: 137.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2026).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 2, 2001.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 8, 2000.

Brief description of amendment: The amendment revises Technical Specification (TS) 5.5.14, "Technical Specifications (TS) Bases Control Program" to reflect the changes made to 10 CFR 50.59 as published in the **Federal Register** on October 4, 1999 (Volume 64, Number 191, "Changes, Tests, and Experiments," pages 53582 through 53617). A conforming change is made to TS 5.5.14 to replace the word "involves" with the word "requires," as it applies to changes to the TS Bases without prior NRC approval.

Date of issuance: March 2, 2001.

Effective date: March 2, 2001, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 138.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2027).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 2, 2001.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Sinificant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility

of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 20, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, Attention: Rulemakings and Adjudications Staff, or

may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 1, 2001.

Description of amendment request: The amendment removes the inservice inspection requirements of Section XI of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code" from the Monticello Technical Specifications and relocates them to a licensee-controlled program.

Date of issuance: March 1, 2001.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment No.: 116.

Facility Operating License No. (DPR–22): Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (66 FR 10535, dated February 15, 2001). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 19, 2001, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated March 1, 2001.

Attorney for licensee: Jay Silberg, Esq., at Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

Dated at Rockville, Maryland this 13th day of March 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6732 Filed 3–20–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Hovnanian Enterprises, Inc., Class A Common Stock, $.01 Par Value) File No. 1–08551

March 15, 2001.

Hovnanian Enterprises, Inc., a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Class A Common Stock, $.01 par value ("Security"), from listing and registration on the American Stock Exchange ("Amex").

The Issuer has applied to have its Security listed on the New York Stock Exchange ("NYSE"). The NYSE approved such application on March 8, 2001. Trading in the Security is expected to commence on the NYSE, and to cease on the Amex, at the opening of business on March 15, 2001.

The Issuer has stated in its application that it has complied with the rules of the Amex governing the withdrawal of its Security and that the application relates solely to the withdrawal of the Security from listing on the Amex and shall have no effect upon its listing on the NYSE or its registration under section 12(b) of the Act.[3]

Any interested person may, on or before April 5, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–6951 Filed 3–20–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44071; File No. SR–PCX–01–08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Rebate of Marketing Charges to Market Makers

March 13, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2001, the Pacific Exchange, Inc. ("PCX" 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 PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to rebate to Market Makers on a quarterly basis the marketing charges that have not been paid to order flow providers. The text of the proposed rule change is available at the principal offices of the PCX 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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The PCX has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Effective September 13, 2000, the PCX began implementing a plan that imposes a marketing fee on PCX market makers to provide a source of payment to order flow providers.[3] Pursuant to the plan, the PCX collects a fee from market makers and makes the funds available to Lead Market Makers ("LMMs") for their use in attracting orders in the options traded at their trading posts. Each LMM determines the distribution of the funds in whatever manner it believes is most likely to attract orders. The PCX has assessed this fee and distributed the proceeds according to the directions of the LMMs, and has found that excess fee proceeds remain in the fund after distribution.

Therefore, the PCX proposes to rebate to market makers, on a quarterly basis, the amount of marketing fees that have not been paid to order flow providers. The amount to be refunded to each market maker would be based on the percentage of the total marketing charges the market maker paid at each trading post during the rebate time period. The marker maker's percentage of the total marketing charges at each trading post would then be multiplied by the rebate amount. For example, if a market maker contributed 5% of the total marketing charges at a particular trading post during the rebate time period, the market maker would receive 5% of that post's overall rebate amount for the rebate time period. The rebate for each market maker would be paid directly to the market maker's clearing firm.

3. Basis

The PCX believes that this proposal is consistent with and furthers the objectives of the Act, including specifically section 6(b)(5)[4] thereof, which requires that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and section 11A(a)(1)[5] therefore, which reflects the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers and among exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX 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

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–01–08 and should be submitted by April 11, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the Act, particularly section 6(b)(5) of the Act,[6] and the rules and regulations under the Act applicable to a national securities exchange. The Commission believes that the proposed rebate program is an appropriate way to distribute excess marketing fee proceeds that the PCX has collected from market makers but that the LMMs have not distributed. Accordingly, the Commission finds that the proposed rule change is consistent with the requirement of section 6(b)(5) of the Act 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. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the proposal in the **Federal Register.** The Commission believes that the PCX's proposed rebate program is the logical extension of its payment for order flow program (SR–PCX–00–30), which became effective upon filing[7] Moreover, the PCX's rebate program is very similar to a payment for order flow rebate program that is currently being administered at the Phlx.[8]

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act.[9] that the proposed rule change (SR–PCX–01–08) be, and hereby is, approved on an accelerated basis.[10]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6950 Filed 3–20–01; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 43290 (September 13, 2000), 65 FR 57213 (September 21, 2000) (SR–PCX–00–30).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78k–l(a)(1).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Securities Exchange Act Release No. 43290, n. 3 above.

[8] *See* Securities Exchange Act Release No. 44021 (February 28, 2001), 66 FR 13823 (March 7, 2001) (SR–Phlx–01–14).

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 20.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3321]

State of Michigan

Genesee County and the contiguous counties of Lapeer, Livingston, Oakland, Saginaw, Shiawassee, and Tuscola constitute a disaster area due to damages caused by severe storms and flooding that occurred on February 9–10, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 14, 2001 and for economic injury until the close of business on December 14, 2001 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.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 332111. The number assigned to this disaster for economic injury is 9K9700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: Mach 12, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–6953 Filed 3–20–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34014]

Canadian National Railway Company—Trackage Rights Exemption-Bangor and Aroostook Railroad Company and Van Buren Bridge Company

Bangor and Aroostook Railroad Company (BAR) and Van Buren Bridge Company (VBBC), pursuant to a written trackage rights agreement to be entered into between BAR, VBBC and Canadian National Railway Company (CNR), will grant limited local trackage rights to CNR over BAR's track between milepost 0.0 at Madawaska, ME, and milepost 22.72 at Canadian Junction, ME, and over VBBC's track between milepost 0.0 at Canadian Junction and milepost 0.31 at the United States-Canada border, a total distance of approximately 23.03 miles. CNR will also acquire trackage rights over a short distance of VBBC's line in Canada to reach a connection with an existing CNR line in St. Leonard, New Brunswick, Canada.[1]

The transaction is scheduled to be consummated on or shortly after March 14, 2001.

This transaction is related to a simultaneously filed notice of exemption in STB Finance Docket No. 34015, *Waterloo Railway Company—Acquisition Exemption—Bangor and Aroostook Railroad Company and Van Buren Bridge Company*, wherein Waterloo Railway Company would acquire from BAR and VBBC, pursuant to a negotiated agreement the parties were in the process of executing, a nonexclusive freight operating easement over the same 23.03 miles of rail line.

The trackage rights will allow CNR to directly access a specified shipper in Madawaska, thus providing that shipper with enhanced rail service options.

CNR agrees to, and affected United States employees will be protected by, imposition of the employee conditions established in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34014, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on William C. Sippel, Esq., Fletcher & Sippel LLC, Two Prudential Plaza, Suite 3125, 180 North Stetson Avenue, Chicago, IL 60601–6721.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

Decided: March 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–7020 Filed 3–20–01; 8:45 am]

BILLING CODE 4915–00–P

[1] CNR's acquisition of trackage rights over VBBC's line in Canada is not subject to the Board's jurisdiction.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34015]

Waterloo Railway Company—Acquisition Exemption—Bangor and Aroostook Railroad Company and Van Buren Bridge Company

Waterloo Railway Company (WRC),[1] a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire, pursuant to a negotiated agreement the parties were in the process of executing, a nonexclusive freight operating easement over a line of railroad of Bangor and Aroostook Railroad Company (BAR) between milepost 0.0 at Madawaska, ME, and milepost 22.72 at Canadian Junction, and Van Buren Bridge Company (VBBC)[2] between milepost 0.0 at Canadian Junction and milepost 0.31 at the United States-Canada border, a total distance of approximately 23.03 miles (Madawaska Line).[3] WRC certifies that its projected annual operating revenues will not exceed $5 million.

This transaction is related to a simultaneously filed notice of exemption in STB Finance Docket No. 34014, *Canadian National Railway Company—Trackage Rights Exemption—Bangor and Aroostook Railroad and Van Buren Bridge Company*, wherein CNR will enter into a trackage rights agreement with BAR and VBBC permitting CNR to conduct limited local trackage rights operations over the Madawaska Line. It is not presently expected that WRC will

[1] WRC is a wholly owned direct subsidiary of Illinois Central Railroad Company (IC), and IC is, in turn, a wholly owned, indirect subsidiary of CNR. *See Canadian National Railway Company, Grand Trunk Corporation and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556, Decision No. 37 (STB served May 25, 1999).

[2] VBBC is a wholly owned subsidiary of BAR. *See Iron Road Railways Incorporated, Benjamin F. Collins, John F. DePodesta, Daniel Sabin, and Robert T. Schmidt—Control Exemption—Bangor and Aroostook Railroad Company, Canadian American Railroad Company, Iowa Northern Railway Company and The Northern Vermont Railroad Company Incorporated*, STB Finance Docket No. 32982, and *Iron Road Railways Incorporated and Bangor and Aroostook Acquisition Corporation—Control Exemption—Bangor and Aroostook Railroad Company and Canadian American Railroad Company*, Finance Docket No. 32657 (STB served Sept. 12, 1996).

[3] The transaction will include a similar easement with respect to the remainder of VBBC's line in Canada, extending to the connection with Canadian National Railway Company (CNR) in St. Leonard, New Brunswick, Canada. That portion of the transaction is not subject to the Board's jurisdiction.

conduct rail operations on the Madawaska Line.

The transaction is scheduled to be consummated on or shortly after March 14, 2001.

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. 34015, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on William C. Sippel, Esq., Fletcher & Sippel LLC, Two Prudential Plaza, Suite 3125, 180 North Stetson Avenue, Chicago, IL 60601–6721.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

Decided: March 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–7019 Filed 3–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 14, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 20, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0367.

Form Number: IRS Form 4804.

Type of Review: Revision.

Title: Transmittal of Information Returns Reported Magnetically.

Description: 26 U.S.C. 6041 and 6042 require all persons engaged in a trade or business and making payments of taxable income to file reports of this income with the IRS. In certain cases, this information must be filed on magnetic media. Form 4804 is used to provide signature and balancing totals for magnetic media filers of information returns.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 37,640.

Estimated Burden Hours Per Respondent/Recordkeeper: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 20,902 hours.

OMB Number: 1545–1549.

Form Number: None.

Type of Review: Extension.

Title: Tip Reporting Alternative Commitment (TRAC) for use in the food and beverage industry.

Description: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 41,800.

Estimated Burden Hours Per Respondent/Recordkeeper: 7 hours, 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 296,916 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–6931 Filed 3–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Vendor Catalogs.

DATES: Written comments should be received on or before May 21, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Michele Spencer, Acquisition Management Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8820.

SUPPLEMENTARY INFORMATION:

Title: Vendor Catalogs.

Form Number: ATF F 1413.1.

Abstract: ATF F 1413.1, Vendor Catalogs will be used for vendors to register their business with ATF and also provide catalogs, product line cards, capability statements and other marketing material to buyers and program offices. The form will eliminate the need for businesses to send many copies of this information by mail to the ATF Procurement Office.

Current Actions: ATF F 1413.1, Vendor Catalogs is a new information collection.

Type of Review: New.

Affected Public: Business or other for-profit, not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 50.

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.

Dated: March 14, 2001.

William Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–7009 Filed 3–20–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Tax Exempt Transfer and Registration of Firearm.

DATES: Written comments should be received on or before May 21, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Schaible, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application For Tax Exempt Transfer and Registration of Firearm.

OMB Number: 1512–0028.

Form Number: ATF F 5 (5320.5)

Abstract: ATF F 5 (5320.5) is used to apply for permission to transfer a National Firearms Act firearm exempt from transfer tax based on statutory exemptions. The form establishes eligibility and exemption.

Current Actions: The form has been revised to include updated information, provide additional information relating to post-registration changes, request information regarding whether the person acquiring the firearm is eligible under Federal law, allow the person acquiring the firearm access to information regarding the status of the transfer, and to make the instructions consistent with other forms.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 7,888.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 379,896.

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.

Dated: March 14, 2001.

William Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–7010 Filed 3–20–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Tax Paid Transfer and Registration of Firearm.

DATES: Written comments should be received on or before May 21, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Schaible, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application For Tax Paid Transfer and Registration of Firearm.

OMB Number: 1512–0027.

Form Number: ATF F 4 (5320.4).

Abstract: ATF F 4 (5320.4) is required to apply for the transfer and registration of a National Firearms Act (NFA) firearm. The information on this form is used by NFA Branch personnel to determine the legality of the application under Federal, State and local law.

Current Actions: The form has been revised to include updated information, provide additional information relating to post-registration changes, request information regarding whether the person acquiring the firearm is eligible under Federal law, allow the person acquiring the firearm access to information regarding the status of the transfer, and to make the instructions consistent with other forms. The annual burden has increased due to the fact that the annual responses for the past 3 calendar years has increased by 41% since the last submission.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 11,065.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 44,260.

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.

Dated: March 14, 2001.

William Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–7011 Filed 3–20–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

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 Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Tax Exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer.

DATES: Written comments should be received on or before May 21, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Schaible, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application For Tax Exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer.

OMB Number: 1512–0026.

Form Number: ATF F 3 (5320.3).

Abstract: ATF F 3 (5320.3) is filed by Federal firearms licensees who have paid the special (occupational) tax to import, manufacture or deal in National Firearms Act (NFA) firearms to transfer a NFA firearm to a similarly qualified licensee.

Current Actions: The form has been revised to include updated information, provide additional information relating to post-registration changes, provide a release to allow ATF to provide the transferee with information regarding the application upon request, and to make the instructions consistent with other forms. Also, the annual burden has decreased because of a miscalculation in the computation of burden hours in the last submission.

Type of Review: Revision.

Affected Public: Business or for-profit.

Estimated Number of Respondents: 2,521.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 13,111.

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.

Dated: March 14, 2001.

William Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–7012 Filed 3–20–01; 8:45 am]

BILLING CODE 4810–31–P

Corrections

Federal Register
Vol. 66, No. 55
Wednesday, March 21, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104683–00]

RIN 1545–AX88

Application of Section 904 to Income Subject to Separate Limitations and Computation of Deemed-Paid Credit Under Section 902

Correction

In proposed rule document 00–32478 beginning on page 319 in the issue of Wednesday, January 3, 2001, make the following corrections:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953 [Corrected]

1. On page 324, in the third column, in **Paragraph 1.**, in the fourth line, "1.094–4 through 1.904–7" " should read " "1.904–4 through 1.904–7" ".

2. On same page, in the same column, in the next to last sentence, "26 U.S.C. 902(d)(5)" should read "26 U.S.C. 904(d)(5)".

3. On page 325, in the first column, in the first and second lines, "26 U.S.C. 902(d)(5). * * *" should read "26 U.S.C. 904(d)(5). * * *".

4. On page 331, in the third column, in paragraph (ii) of *Example 1*, in the third and fourth lines, remove the phrase "foreign source:".

5. On page 334, in the first column, in **Par. 9.**, the first paragraph should read as follows:

Par. 9. Section 1.904(b)–2 is revised to read as follows:

§1.904(b)–2 Special rules for application of section 904(b) to alternative minimum tax foreign tax credit.

[FR Doc. C0–32478 Filed 3–20–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 21, 2001

Part II

Federal Emergency Management Agency

44 CFR Part 295
Disaster Assistance; Cerro Grande Fire Assistance; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 295

RIN 3067–AD12

Disaster Assistance; Cerro Grande Fire Assistance

AGENCY: Office of Cerro Grande Fire Claims, Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule implements the Cerro Grande Fire Assistance Act (CGFAA), Public Law 106–246, and supersedes the interim final rule that we published on August 28, 2000 [65 FR 52260]. It applies to claims that were filed before the effective date of the final rule and claims filed after the effective date of the final rule, unless this rule provides otherwise.

EFFECTIVE DATE: March 21, 2001.

FOR FURTHER INFORMATION CONTACT: For further information on this regulation please contact Nathan Bergerbest, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2685, or (e-mail) *nathan.bergerbest@fema.gov*. For claims forms and customer service information contact the Cerro Grande Fire Claims Administrative Office, Post Office Box 1480, Los Alamos, New Mexico 87544–1480, (telephone) 1–888–748–1853 (toll-free).

SUPPLEMENTARY INFORMATION: The CGFAA requires that FEMA administer a program to provide compensation to survivors of the May 2000 Cerro Grande Fire in northern New Mexico. The Act required that FEMA publish implementing regulations within 45 days of enactment. FEMA met this deadline by publishing the interim final rule on August 28, 2000 [65 FR 52260]. Due to the short period of time for completion of the interim final rule, it was published without opportunity for public comment.

FEMA accepted public comment on the interim final rule for a sixty-day period, which closed on October 27, 2000. FEMA received 69 written comments by mail and e-mail from various stakeholders, including the Cerro Grande Fire Survivors' Association, Los Alamos County, the Pueblo of Santa Clara, the Rio Grande Chapter of the Appraisal Institute and several insurance industry trade associations. These statistics include 15 written comments submitted to FEMA before the interim final rule was issued. The 69 comments addressed 81 issues. We found all of the comments to be relevant and constructive. We considered each comment carefully in formulating this final rule.

Sectional Analysis

Subpart A. Subpart A of the final rule (§§ 295.1–295.7) provided general information on the CGFAA. We have made several editorial changes to § 295.5, which provides an overview of the claims process, to reflect amendments to §§ 295.30 and 295.32 of the interim final rule and to highlight the relationship between these sections and § 295.21(a).

Section 295.6 of the interim final rule addressed partial payments. A commenter suggested that partial payments should be made for at least 70% of the claim amount, with expedited payments to those in need. We have not amended § 295.6 because we believe that the existing language provides FEMA with sufficient discretion to make partial payments of any amount and to expedite payments when it is appropriate to do so. The amount of a partial payment in any particular case will depend upon the nature of the claim and in some cases, how well the claim is supported. We encourage Claimants who require expedited payments to discuss the matter with a Claims Reviewer.

A new § 295.7 authorizes the Director of OCGFC to offer Claimants an opportunity to settle or compromise a claim in whole or part.

One commenter asked whether Claimants have access to policies adopted by the Office of Cerro Grande Fire Claims. We post copies of these policies on the World Wide Web at *http://www.fema.gov/cerrogrande*. They also are available for public inspection at OCGFC Customer Service Centers. The commenter also asked how members of the public might comment on the implementation of the CGFAA. Comments may be directed to the Director of OCGFC, Cerro Grande Fire Claims Administrative Office, Post Office Box 1480, Los Alamos, NM 87544–1480 or dropped in one of the suggestion boxes that are in each of the Customer Service Centers.

Subpart B. Subpart B explains the process for bringing a claim under the CGFAA. We are clarifying §§ 295.10(a) and 295.11 to remind Claimants that the Notice of Loss must contain a brief description of each Loss. The term "Loss" is defined in Subpart F of the final rule, § 295.50.[1] This is important because FEMA cannot provide compensatory damages for a Loss unless the Claimant has reported it to FEMA by August 28, 2002. §§ 295.33 and 295.34 of the final rule establish a process for notifying FEMA about Losses that are not mentioned in the initial Notice of Loss. However a Claimant tells FEMA about a Loss, whether in the initial Notice of Loss, an amendment under § 295.33 or a request to reopen the claim under § 295.34—we must know about the Loss by August 28, 2002.[2]

We amended § 295.10(c) of the interim final rule to clarify who must sign the Notice of Loss. If the Claimant is an entity[3] or an individual who lacks the legal capacity to sign the Notice of Loss, then and only then can a duly authorized legal representative of the Claimant sign the Notice of Loss. The same principle applies to affidavits submitted in support of claims, the Proof of Loss, and the Release and Certification Form. Public adjusters and attorneys should not sign CGFAA documents on behalf of individual Claimants who have the legal capacity to execute these documents. OCGFC will audit Notices of Loss that were filed under the interim final rule. If we determine that an attorney, public adjuster or other representative signed a Notice of Loss, which should have been signed by an individual Claimant, we will require that the Claimant submit a written ratification of the Notice of Loss. The Claimant will need to execute this ratification under penalty of perjury and subject to the provisions of 18 U.S.C. 1001, which provides penalties for false statements.

Section 295.10(e) of the interim final rule does not permit the submission of Notices of Loss by facsimile. One

[1] The term "Loss" refers to one of the several categories of compensable personal injuries, property losses, business losses, and financial losses described in § 104(d)(4) of the CGFAA and in this regulation. A Claimant must tell us about his or her Losses in general terms in the Notice of Loss. A complete inventory of lost household effects need not be included in the Notice of Loss. For example, a Claimant who claims that household effects or personal property were lost to the Cerro Grande Fire may obtain compensation for a destroyed toaster, even though the toaster is not specifically listed on the Notice of Loss. However, Claimants who seek damages for personal injuries or losses involving real estate should describe the injury suffered with reasonable specificity.

[2] There are a few exceptions to this rule. A Claimant who tells FEMA that his or her home was damaged or destroyed by the Cerro Grande Fire may seek mitigation compensation under § 295.21(d) without specifically mentioning it on the Notice of Loss. Similarly, eligible Claimants are eligible to receive a lump sum payment under § 295.31(b) for incidental expenses incurred in claims preparation, without having to request these funds specifically in the Notice of Loss.

[3] Entities are organizations such as corporations, sole proprietorship businesses (d/b/a's), partnerships, limited liability companies, trusts, estates, unincorporated associations, cooperatives, Indian tribes and government agencies.

commenter suggested that FEMA should reconsider the decision. We have decided to retain the present policy because we believe that it substantially reduces the risk of lost documents.

Withdrawal of CGFAA Claims

Commenters suggested that Claimants should have a short period following publication of the final rule to withdraw their claims under the CGFAA and pursue them under other mechanisms. FEMA believed that there was merit in the suggestion. However, FEMA cannot unilaterally implement regulations providing CGFAA Claimants with an opportunity to pursue their claims under other legal mechanisms, such as the Federal Tort Claims Act. We must consult with the Department of Justice and the Department of the Interior before making policy in this area.

FEMA has discussed this issue with the Department of Justice and the Department of the Interior. The Department of Justice concluded that providing CGFAA Claimants with an opportunity to withdraw their fire act claims and proceed under other mechanisms, including the Federal Tort Claims Act, is contrary to Section 104(h) of the CGFAA. FEMA must respect this conclusion.

Subrogation Claims

Section 295.13 of the interim final rule addressed subrogation claims. A number of comments addressed subrogation issues. An individual commenter suggested that FEMA should penalize insurance companies for delays in processing the claims of their policyholders by reducing subrogation payments under the CGFAA. Another commenter suggested that insurance companies receiving subrogation payments should be required to refund premiums to injured policyholders and be limited in the rates they charge injured policyholders in the future. FEMA lacks the authority under the CGFAA or any other law to regulate the conduct of insurance companies.

Two comments from the insurance industry suggested that FEMA should request any additional information it needs to process a subrogation claim within 30 days of its submission. We have not adopted this suggestion because the law authorizes us to seek additional information concerning a claim at any time while we are evaluating the claim.

Two insurance industry commenters asked whether FEMA would reimburse insurance companies for monies paid to injured policyholders, which was not required to be paid under the terms of the policy. The issue arose in two different contexts—the first in which the insurance company has paid an injured policyholder's living expenses in excess of policy limits. The other scenario involves the case in which the insurance company is not required to pay a policyholder for the cost of replacing a home unless the policyholder actually rebuilds. The OCGFC has provided guidance to the insurance industry on this issue. The guidance provides that OCGFC may reimburse insurance companies for reasonable payments, not required by the policy, made to injured policyholders on or before October 25, 2000. The OCGFC will not entertain subrogation claims for payments made in excess of policy limits or contrary to policy terms made after October 25, 2000.

An insurance industry commenter suggested that their adjuster's determination of Loss should be binding on FEMA when considering a subrogation claim. The CGFAA requires that FEMA determine and fix the compensation due to all Claimants, including subrogation claimants. We cannot exempt subrogation claims from our evaluation process simply because a professional adjuster was involved in the formulation of the claim.

Several comments related to § 104(d)(1)(A)(ii) of the CGFAA, which suggests that FEMA should not pay subrogation claims until other claims have been paid. An individual commenter suggested that FEMA not pay any insurance subrogation claim until the insurance company has settled all of its obligations to policyholders who suffered damage from the Cerro Grande Fire. An insurance industry commenter suggested that it is appropriate for FEMA to process and pay a subrogation claim when an insurer has fulfilled its obligations to a particular policyholder. Another insurance industry commenter suggested that the OCGFC should consider partial payments on subrogation claims.

After considering these comments, we decided to amend § 295.6. FEMA will not accept a subrogation claim to recover payments made on an insurance policy until the insurer has paid the insured everything that the insurer believes that the insured is entitled to receive under the policy. A Subrogation Notice of Loss may be filed if there is a dispute between the insurer and the insured, which is pending before a third-party (e.g., appraiser, arbitrator or court), provided that the insurer has made the final payment that it believes that the insured is entitled to receive under the policy. We must receive the Subrogation Notice of Loss by August 28, 2002.

Subpart C. Subpart C of the interim final rule addressed damages available under the CGFAA. By far, the greatest number of comments submitted pertained to Subpart C issues. Before we published the interim final rule, Los Alamos County suggested that we publish a comprehensive, non-restrictive listing of the types of items that we can compensate a Claimant for under the Act. We sought comment on whether we should accept this suggestion.

Numerous commenters suggested that we rule on whether specific losses are compensable. None suggested that we provide a comprehensive list of Losses that are compensable or eligible damages. FEMA continues to believe that we should consider the unique facts of each claim before making final decisions about whether losses are compensable and how to compensate Claimants for their losses. Claimants should not assume that a loss resulting from the Cerro Grande fire is not compensable simply because the regulations fail to address it specifically. Claimants should include all losses resulting from the Cerro Grande fire on the Notice of Loss.

Exclusions

We received a significant number of comments on § 295.21(b), which addresses compensation not available under the CGFAA. Section 295.21(b) provides that FEMA will not reimburse Claimants for taxes owed as a consequence of receiving a CGFAA payment. One commenter suggested that the interim final rule be amended to make payments under the CGFAA tax-free. FEMA is not authorized under the CGFAA to determine the tax treatment of the payments that we make. We encourage Claimants to consult with their tax advisors or tax agencies about the tax consequences of receiving a CGFAA payment. FEMA has encouraged the tax agencies to implement public information programs concerning these issues.

Section 295.21(b) also provides that we will not reimburse attorneys' and agents' fees. We intend the exclusion to apply to attorneys' and agents' fees incurred in the prosecution of a CGFAA claim. We also note that neither New Mexico law nor the CGFAA regard attorneys' fees and agents' fees incurred in the prosecution of an insurance claim as compensatory damages.

Fifteen commenters suggested that we reimburse public adjuster fees in whole or in part. We considered the issue with an open mind. After careful reflection,

we concluded that it is not appropriate to reimburse Claimants for public adjuster fees. We looked to New Mexico law and the Federal Tort Claims Act for guidance in resolving this question. Under New Mexico law public adjuster fees, like attorneys' fees, are not regarded as compensatory damages in tort actions. These fees are also not recoverable in Federal Tort Claims Act lawsuits.

A number of Claimants argued that public adjuster fees should be reimbursed under the rubric of claims preparation expenses. The cost of organizing and presenting a claim is not regarded as compensatory damages in tort actions under New Mexico law nor is it recoverable in a Federal Tort Claims Act lawsuit.[4] For these reasons we are unable to adopt the suggestion.

A commenter suggested that Claimants should not be prejudiced by their decision to work with a public adjuster. The decision on whether to use a public adjuster or other representative is the Claimant's alone. FEMA will not treat a Claimant who chooses to work with an attorney, public adjuster or other agent more favorably or less favorably than a Claimant who chooses to represent him or herself in the claims process.

We also have considered whether statutory double damages provided in § 30–32–4 of the New Mexico Statutes Annotated (1978) may be recovered under the CGFAA. The CGFAA provides that punitive damages are not recoverable. While we have not identified any New Mexico or federal court decision addressing the specific question of whether statutory damages under § 30–32–4 are compensatory damages or punitive damages, the New Mexico Supreme Court noted in *Hale* v. *Basin Motor Company,* 110 N.M. 314, 320, 795 P.2d 1006, 1012 (1990) that "multiplication of damages pursuant to statutory authority is a form of punitive damages." Congress did not authorize FEMA to pay statutory damages under § 30–32–4 in the CGFAA or its legislative history. It also failed to appropriate sufficient funds to pay damages in accordance with § 30–32–4. These facts lead us to conclude that Congress believed statutory damages under § 30–32–4 are punitive damages, rather than compensatory damages.

Home Replacement

Section 295.21(d) of the interim final rule set out our approach to compensating those whose homes were destroyed by the Cerro Grande fire. The preamble to the interim final rule suggested that FEMA would look to construction costs in northern New Mexico when determining Replacement Cost of a home. Two commenters noted that there are variations in construction costs among communities in northern New Mexico. We have always intended to consider construction costs in the locality that a damaged or destroyed home existed before the fire in determining Replacement Costs. We made a clarifying revision to § 295.21(d). We also defined the term "Replacement Cost" in § 295.50.

A number of comments addressed the Home Replacement Policy, adopted by OCGFC on November 1, 2000. Ordinarily we would not respond to comments concerning a policy in the preamble to a final rule. We are making an exception in this case because it is important for Claimants to understand how the Home Replacement Policy fits within the final rule.

Option I of the Home Replacement Policy offers those Claimants whose homes were lost to the fire an opportunity to receive a lump sum payment for most of their home replacement costs. This lump sum offer is a type of compromise or settlement authorized by § 295.7 of the final rule. Claimants who elect Option I will receive a lump sum payment for eligible home replacement costs under the terms of the policy, not under § 295.21(d) of the final rule. While many Claimants have indicated to OCGFC that they will be able to replace their homes satisfactorily with the funds made available through Option I, some Claimants continue to believe that Option I is inadequate. These Claimants should elect Option II. Option II damages will be determined in accordance with § 295.21(d).

A commenter argued that FEMA should periodically adjust the lump sum award under Option I upward to account for inflation. OCGFC believes that it is important to address this question at this juncture so that Claimants do not delay their home replacement decision in the mistaken belief that the terms of the Option I will change over time. FEMA does not intend to change the square foot replacement rates specified in Option I of the Home Replacement Policy. Claimants who do not expect to rebuild immediately can protect their payments against inflation by prudently investing the funds until they are needed for construction. Option I payments will not be Discounted to Present Value. Claimants who remain concerned that inflation might erode the Option I award may find that Option II is more advantageous.

One commenter suggested that the lump sum payment for a duplex that was converted to a single-family home should be compensated at the Option I rate for single-family homes. FEMA will not consider modifications made to the dwelling before the fire in determining which square foot replacement rate applies. A dwelling that was originally constructed as a duplex will be compensated as a duplex.

An insurance industry commenter suggested that the Option I square foot replacement rates are unduly generous. FEMA disagrees. The square foot replacement rates were calculated after consultations with a reputable local architect and local contractors. These rates represent our estimate of reasonable Replacement Costs in the post-fire marketplace. FEMA expresses no opinion as to whether insurance companies were mandated to offer replacement cost settlements comparable to Option I under the terms of their policies.

The Home Replacement Policy provides that FEMA will not "compensate for costs to replicate construction materials that are no longer readily available, that do not meet code or that are not reasonably necessary to replace the home." Several commenters took issue with this section of the policy. FEMA believes that this statement is consistent with § 295.21(d) and the CGFAA. Replacement Cost is the cost of reconstructing something that is comparable in quality and utility to that which was destroyed.[5] The term does not require that FEMA compensate Claimants to construct an exact replica using outdated construction materials that may have been standard or low cost in their day.

A commenter suggested that FEMA provide an upgrade allowance on the theory that some homes destroyed by the fire were constructed with more durable materials than are available today. Our obligation under the CGFAA is to provide sufficient funds for a homeowner to rebuild a home comparable in quality and utility to the home that the Cerro Grande fire destroyed. Section 295.21(d) provides that we will fund upgrades to meet current codes. A mitigation allowance is made available over and above Replacement Cost.

A commenter inquired whether FEMA would compensate a quad or duplex owner for the cost of buying out the interests of other owners in order to

[4] FEMA has exercised the discretion afforded by the CGFAA to make a lump sum payment to eligible Claimants for miscellaneous and incidental expenses. *See,* § 295.31(b) of the final rule. Public adjuster fees can be paid from this allowance.

[5] *See* Subpart F, § 295.50 of the final rule.

reconstruct a home on the same site. FEMA does not believe that it is reasonable to compensate the owner of a quad unit for the cost of buying out the other three owners.

Replacement Cost for Trees and Landscaping

Section 295.21(d) of the interim final rule and the preamble indicated that Replacement Cost includes the reasonable cost of returning one's lot to pre-fire condition. OCGFC has issued a policy on how we will calculate a reasonable Replacement Cost for trees and landscaping lost to the fire. We developed the policy, which was issued on October 20, 2000, in consultation with arborists and after reviewing the Guide for Plant Appraisal, 9th Ed., authored by the Council of Tree and Landscape Appraisers. The policy provides that FEMA will compensate for the cost of replacing lost trees and landscaping in an amount up to 25% of the pre-fire value of the structure and lot.

Numerous comments addressed compensation for trees and landscaping. One of the commenters complimented FEMA for adopting the policy. Other commenters suggested that FEMA should reimburse Claimants for the costs that they actually incur in replacing trees, regardless of the cost.

Under New Mexico tort law, damages are awarded for destroyed or damaged trees based upon the value of the trees destroyed or the difference in the value of the real estate with and without the trees. This is a less generous formula than Replacement Cost. The legislative history of the CGFAA suggests that FEMA should use Replacement Cost as the measure of damages for replacement of real and personal property, however it did not speak directly to trees and landscaping. FEMA believes that the Replacement Cost calculation it has established is consistent with the legislative intent and is incorporating the policy into § 295.21(d).

Mitigation for Homeowners Who Rebuild Under § 295.21(d)

Section 104(d)(4)(C)(vii) of the CGFAA grants FEMA the authority to compensate for mitigation to address future wildfires, floods or other natural disasters as a component of financial loss. This section of the CGFAA also empowers FEMA with discretion to determine the reasonableness of mitigation compensation requests. Section 295.21(d) of the final rule provides that FEMA will compensate rebuilding homeowners for mitigation measures in an amount not to exceed 15% of compensation from all sources, i.e., the CGFAA, insurance and FEMA disaster assistance, to restore the structure and lot to its pre-fire condition.

We also have revised § 295.21(d) to clarify the procedures for obtaining mitigation compensation. In order to obtain mitigation compensation under § 295.21(d), a Claimant must have a Notice of Loss that claims damage from the Cerro Grande fire to residential real property (home and/or lot) owned by the Claimant at the time of the fire. This Notice of Loss must be on file by August 28, 2002. A separate Request for Mitigation Assistance on an OCGFC form must be submitted not later than August 28, 2003. This is the deadline provided by Section 104(d)(4)(C)(vii) of the CGFAA. Claimants who receive mitigation compensation must construct the mitigation measures they have applied for. FEMA will audit the use of mitigation funds and can recoup funds which were paid for the construction of mitigation measures but were not properly spent.

A number of comments addressed § 295.21(d) of the interim final rule as it relates to mitigation. One of the commenters suggested that mitigation funds be available under § 295.21(d) to Claimants who suffered smoke damage or repairable structural damage to their home and to those who suffered damage to their lot and/or landscaping. FEMA accepts this suggestion. The term "Destruction of a Home" has been defined in Subpart F, § 295.50 to include these types of losses. This change enables FEMA to extend mitigation funds under § 295.21(d) to those Claimants who did not experience the total loss of a home as well as those Claimants that did.

Two commenters suggested that mitigation funds should be available to those who lost their homes but choose to purchase an existing home or rebuild on another site. Section 295.21(d) authorizes FEMA to compensate Claimants for mitigation measures "that will reduce the property's vulnerability to the future risk of wildfire, flood or other natural disasters related to the Cerro Grande Fire." We interpret this provision to mean that anyone who lost a home to the Cerro Grande fire and who chooses to either build or purchase a home within the boundaries of Los Alamos, Rio Arriba, Sandoval or Santa Fe counties (including the Indian reservations and pueblos sited within those counties, such as the Santa Clara Pueblo and the San Ildefonso Pueblo) may seek mitigation funds. We have selected these counties because the Cerro Grande fire passed through them. Anyone who lost a home to the Cerro Grande fire but who chooses to rebuild in one of the other New Mexico counties which were part of the disaster area referred to in § 102(a)(4) of the CGFAA may be eligible for mitigation funds if the Claimant can demonstrate an increased risk of fire, flood or other natural disaster at the new location as a result of the Cerro Grande fire.

Several comments addressed the prerequisites to obtaining mitigation compensation in the interim final rule. In response to these comments, we are amending § 295.51(d) to provide that a Claimant need not obtain local government approval of his or her proposed mitigation measures if none is required under applicable law or an agreement between OCGFC and the local government. However, if a permit, or other land use approval is required to construct the mitigation measures under federal, state, local or tribal law or a clearance is required under an agreement between a governmental entity and OCGFC, the permit, approval or clearance must be obtained before construction begins. OCGFC expects to enter into an agreement with Los Alamos County that will require local government approval before we will provide mitigation compensation for defensible space. Claimants should consult with the Claims Reviewer to determine whether OCGFC has entered into any other agreements concerning mitigation before construction begins.

We also are relaxing the requirement that Claimants must obtain our approval of the proposed mitigation measures well before their construction. This requirement was initially formulated in response to concerns that environmental and historic preservation reviews required by law cannot be meaningfully undertaken after construction has begun. Since we have discretion to fund or not fund mitigation measures under § 104(d)(4)(C)(vii) of the CGFAA, we must consider environmental and historic preservation issues when exercising this discretion.

We will consider compensating property owners for mitigation measures after construction has begun or has been completed, but only if those requests qualify for a categorical exclusion under the National Environmental Policy Act. The criteria for categorical exclusions are explained in our agency-wide environmental review regulations which appear at 44 C.F.R. 10.8(d). A list of mitigation measures that fall within the categorical exclusions is available from the OCGFC. In addition, the mitigation measures cannot raise issues under other applicable environmental or historic preservation statutes.

While we anticipate that many mitigation projects will meet these criteria, property owners who do not obtain our pre-approval of such measures run the risk that we will not be able to pay for them. Accordingly, we continue to encourage property owners to apply for mitigation funds well in advance of construction.

One commenter suggested that mitigation funds should be made available to homeowners who did not suffer any damage to their home or lot from the Cerro Grande Fire. These property owners may seek mitigation compensation under § 295.21(h) of the final rule, provided that they experience an increased risk of wildfire, flood or other natural disaster caused by the Cerro Grande fire and the community has provided for individual mitigation projects in its Mitigation Compensation Plan. They are not eligible for mitigation compensation under § 295.21(d). A commenter suggested that FEMA make low interest loans available to those Claimants who wish to undertake flood mitigation projects for which compensation is not available under the CGFAA. The CGFAA does not provide us with any authority to make loans.

Real Estate Valuation Issues

Section 295.21(e) is intended to implement Section 104(d)(4)(A)(ii) of the CGFAA, which authorizes FEMA to pay "otherwise uncompensated damages resulting from the Cerro Grande fire for * * * a decrease in the value of real property." Section 295.21(e)(1) of the interim final rule provided for compensation of realized losses, while § 295.21(e)(2) was addressed to unrealized losses.

We are amending the § 295.21(e)(1) and (2), to allow us to compensate for realized losses in the value of real property, i.e., land and structure, to the extent that such losses have not been fully compensated either through the Replacement Cost award under § 295.21(d)(1) or otherwise. Section 295.21(e)(1) and (2) of the interim final rule did not allow us to compensate for an otherwise uncompensated loss of value to the structure. We have amended § 295.21(e)(2) to clarify that FEMA will only compensate for unrealized losses in the value of real estate that are permanent in nature. This is consistent with New Mexico law. We also have amended both sections to clarify that they apply only to residential real estate. Losses involving the value of commercial real estate will be evaluated on a case by case basis, rather than under § 295.21(e).

Mitigation Under § 295.21(h)

Section 295.21(h) addresses mitigation projects that are not eligible under § 295.21(d). Section 104(d)(4)(c)(vii) of the CGFAA authorizes FEMA to compensate Claimants for reasonable mitigation measures, as determined by the Director. The final rule budgets up to 15% of the $455 million appropriated by Congress for the payment of fire claims and 15% of any subsequent appropriations for the payment of fire claims to fund reasonable mitigation measures under § 295.21(h). However, it is our intention to only fund mitigation measures that we believe will reduce risks that were heightened by the Cerro Grande fire and which make sense in our professional judgment.

Several amendments made to § 291.21(h) clarify the deadlines for seeking compensation for specific mitigation projects undertaken pursuant to FEMA-approved Mitigation Compensation Plans. In order to obtain mitigation compensation under § 295.21(h), a Claimant must have a Notice of Loss on file with OCGFC, even if the Claimant's only Cerro Grande Fire related losses are for mitigation expenses. This Notice of Loss must specifically denote mitigation expense as an item of Loss and must be on file by August 28, 2002. A separate request for compensation of specific mitigation measures must be submitted not later than August 28, 2003. The mitigation measures that are funded must be constructed.

A Claimant may request mitigation compensation before, during or after construction work on the mitigation measures begins. However, environmental and historic preservation reviews of the mitigation activity must be conducted. We will not approve mitigation compensation if the Claimant started construction before receiving our approval unless the mitigation activities qualify for a categorical exclusion under the National Environmental Policy Act and do not raise issues under other applicable environmental or historic preservation statutes.

One commenter suggested that our approval of Mitigation Compensation Plans submitted by governmental entities under § 295.21(h) should be conclusively presumed if we have not approved them within 30 days of the date when they were submitted. OCGFC plans to complete its review of Mitigation Compensation Plans within 60 days of submission. In some cases, we may require additional time to consider a Mitigation Compensation Plan. We do not believe that it is appropriate to impose an inflexible deadline for approval of Mitigation Compensation Plans.

Other Losses

Numerous comments suggested that the Director of FEMA exercise his discretion to establish new categories of compensable Loss as permitted by various provisions of the CGFAA. We adopted a few of these suggestions. However, we reserve the discretion to establish new categories of compensable Loss if merited by particular cases.

Two commenters suggested that we compensate for flood insurance premiums incurred by Claimants who are concerned that the fire may have increased the risk of flood. One commenter suggested that we should not compensate for flood insurance premiums if the Claimant is not at risk of flooding due to natural features. Section 104(d)(4)(C)(viii) of the CGFAA authorizes us to compensate those Claimants who were not required to maintain flood insurance before the fire, but are required to maintain flood insurance as a consequence of the fire for premiums incurred through May 12, 2002. We believe that the statutory language is too restrictive to compensate all of those who legitimately may desire to obtain flood insurance out of the fear of heightened flood risk. Because there has not been sufficient time to revise flood zone maps since the Cerro Grande fire, some Claimants who may have legitimate reason for concern may not be "required" to maintain flood insurance. We have decided to exercise the discretion to establish a new category of financial loss to address these concerns. A new § 295.21(j) of the final rule addresses flood insurance.

Two commenters from the insurance industry asked us to provide for the reimbursement of catastrophic claims expenses as a business or financial loss. These expenses cannot be recovered as part of a subrogation claim. Under New Mexico law, claim adjustment expenses are not regarded as compensatory damages but costs. The CGFAA provides for recovery of compensatory damages, not costs. We amended § 295.21(b) of the final rule to indicate that insurance company claims expenses are not compensable under the Act.

We are also exercising the discretion under the CGFAA to compensate individual Claimants who have incurred reasonable out of pocket expenses for the treatment of a mental health condition resulting from the Cerro Grande fire which are not covered by insurance. Reimbursement will be available only if the condition cannot be

effectively treated through no-cost outpatient crisis counseling services in the communities affected by the Cerro Grande fire. This new category is described in § 295.21(k) of the final rule. Damages for mental health conditions are not recoverable under New Mexico law, except in a very limited class of cases. We will not entertain subrogation claims for mental health treatment unless those expenses could be recovered in a tort action under New Mexico law.

In the preamble to the interim final rule, we sought comment on whether we should reimburse those who provided merchandise, equipment or other items of value to fire victims without charge or at a discount. We have decided to create a new category of financial loss for donations. This new category is described in § 295.25(l) of the final rule.

Duplication of Benefits

We have relocated the duplication of benefits provisions, which appeared in § 295.21(i) of the interim final rule, to § 295.21(m) of the final rule. Two comments addressed the duplication of benefits provisions. The first comment, submitted by an insurance industry commenter, pertains to debris removal. The commenter suggests that we should reimburse insurance companies that made debris removal payments to policyholders in cases where Los Alamos County removed the debris at no cost to the policyholder. Insurance companies may seek reimbursement of these payments in their subrogation claims. However, we will not reimburse insurers in cases where the debris was removed by Los Alamos County unless the insurance policy required that the payment be made to the policyholder notwithstanding that such services were provided free of charge to the policyholder by the local government.

The second comment asks us to interpret § 104(d)(1)(C) of the CGFAA, which provides that compensatory damages will be reduced by the amount of insurance proceeds that will be paid. If a Claimant has not settled with the insurance company by the time we are prepared to make a partial payment on the claim, we will examine the insurance policy and determine what we reasonably expect the insurance company to pay. We will review the issue again in the Authorized Official's Determination. If the insurance company has not paid all that we anticipated, we can award the difference at the time that the Authorized Official's Determination is made. We note that the Public Regulation Commission of the State of New Mexico required insurance companies to settle claims brought by policyholders who suffered fire-related losses within 90 days of the date that the claim was reported to the insurer. We expect that most, if not all, insurance claims will have been paid before the Authorized Official's Determination is issued. However, in the event that the insurance claim is resolved after the Authorized Official's Determination is issued and as a result the Claimant is due additional compensation under the CGFAA, the Claimant should ask the OCGFC to reconsider the matter under §§ 295.33 or 295.34.

Subpart D

Subpart D of the interim final rule addressed the process by which FEMA will evaluate claims. On the one hand, it has always been our intention that this process be non-adversarial and collaborative. On the other hand, we must base our compensation decisions on information, not speculation. We have reorganized Subpart D to more clearly describe our expectation of how the process is to work.

Burden of Proof and Documentation of Losses

Section 295.21(a) of the interim final rule advised Claimants that they bear the burden of establishing all elements of their Losses and damages. Sections 295.5 and 295.30 of the interim final rule suggested that Claimants could expect some assistance in documenting their claims from the Claims Reviewer. Some Claimants appear to have taken this to mean that the burden of establishing Losses and damages has shifted from the Claimant to the Claims Reviewer. Although the customer service responsibilities of the Claims Reviewers are substantial, there are limitations. The primary responsibility of the Claims Reviewer is to review, investigate and objectively evaluate claims for the OCGFC. Our Claims Reviewers cannot function as agents or representatives of the Claimant.

Here are some of the ways that we expect Claims Reviewers to help Claimants. In routine cases, we expect the Claims Reviewers to be proactive in helping the Claimant to identify Losses and formulating a strategy for proving them. In more complex cases, the Claimant will need to take the lead in assembling the claim and should not await direction from the Claims Reviewer. Claims Reviewers should also help Claimants to obtain reasonably available substitute documentation to support their Losses if the original documentation was either lost to the fire or through the passage of time.

We have rewritten § 295.30(a) in an effort to clear up any remaining confusion between the responsibilities of the Claimant and the role of the Claims Reviewer. Section 295.30(a) of the final rule states that the Claimant bears the burden of proof for establishing all elements of the Loss and compensatory damages. This language is excerpted from § 295.21(a) of the interim final rule. It also provides Claimants with the opportunity to make a record supporting the claim by submitting any information or documentation that they deem relevant. The responsibility for making this record rests with the Claimant, not the Claims Reviewer.

Since we must support our compensation decisions with evidence, we expect that Claimants will provide whatever evidence is reasonably available to corroborate the nature, extent and value of their losses. If documentation or substantiating evidence of a Loss or damage is not reasonably available (e.g., it burned in the fire), OCGFC may determine that the Claimant's statement, given under penalty of perjury, is sufficient to substantiate that portion of the claim. We will determine whether the Claimant's statement alone will be sufficient to substantiate the Loss or damage based on the unique circumstances presented by each case, taking into consideration potential alternative sources of substantiation and documentation.

Section 295.30(a) of the final rule authorizes OCGFC to ask that Claimants provide affidavits to support the claim. For example, we are advising Claimants who have suffered business losses that they may expedite resolution of their claim if they voluntarily provide copies of their income tax returns. Claimants who decline to submit their income tax return voluntarily during the claims review process must sign an affidavit agreeing to produce the returns if requested by our Office of the Inspector General or the General Accounting Office in the course of an audit.

A number of comments addressed affidavits. One commenter suggested that we should not ask people to obtain affidavits from family members and others in the community who might be familiar with their losses. We are sensitive to the privacy concerns of our Claimants. Where we believe an affidavit from a close associate of the Claimant will strengthen the claim, we may suggest that the Claimant obtain one. We will not automatically reject the claim, however, if the Claimant declines to provide the affidavit. We will consider all of the evidence in the

record, including any alternative substantiation offered by the Claimant, in making a decision.

We also have noted some resistance to our request for an affidavit to support a partial payment. We will ordinarily make partial payments only when we have a reasonable basis to estimate the Claimant's damages. The affidavit may be necessary to provide us with the reasonable basis to make a partial payment early in the claims process. In response to comments from the community, OCGFC has established policy on when we will request affidavits.

Proof of Loss

Before the Authorized Official's Determination can be issued, the Claimant must sign the Proof of Loss. The interim final rule did not establish a deadline by which the Claimant must sign the Proof of Loss. We expected that most Claimants would want to resolve their claims expeditiously, consistent with the spirit of the legislation, and did not initially see a need for one.

Some members of the public have commented that it is legitimate to delay submission of the Proof of Loss until August 28, 2002. It has also been suggested that suggestion that FEMA is asking Claimants to submit their Proofs of Loss expeditiously for FEMA's convenience. In response, we respectfully submit that it is in both the Claimant's interest and FEMA's interest that claims be expeditiously resolved. The intent of the CGFAA is to compensate fire survivors as quickly as possible.

Congress entrusted FEMA with administering an orderly compensation process. The CGFAA states that FEMA must determine the compensation due to a Claimant within 180 days of the date upon which the Notice of Loss is filed. It is impossible for FEMA to fulfill this mandate if Claimants are unwilling to provide specific details about their losses by signing the Proof of Loss. While we believe that Congress intended for FEMA to have the flexibility to provide Claimants with extra time to tell us about their losses in appropriate cases, nothing in the CGFAA or its legislative history suggests that Claimants should be able to keep their claims open for a full two year period.

For these reasons, we have added a new § 295.30(b) to the final rule, which addresses the Proof of Loss in non-subrogation cases.[6] Claimants who submitted their initial Notice of Loss before January 1, 2001 have 90 days from March 21, 2001 to submit a Proof of Loss, without regard to whether they previously requested an extension of time from FEMA. We are providing this automatic 90 day extension out of respect for those Claimants who wanted a reasonable time to review the final rule before submitting the Proof of Loss. This extension does not preclude any Claimant from submitting the Proof of Loss earlier.

However, Claimants who file their initial Notice of Loss on or after January 1, 2001 must submit the Proof of Loss within 150 days after the initial Notice of Loss is filed. Adherence to this deadline will leave us with 30 days to determine the compensation due to the Claimant and enable us to meet the 180 day timeframe envisioned by Congress.

To provide a claims process that it orderly for all and to meet our obligation to live within the financial means provided by Congress for administration of the program, we must insist that Claimants comply with the timeframes for signing a Proof of Loss that are set forth in this final rule. There is flexibility built into our process for Claimants to tell us about Losses and damages that they could not have discovered or did not remember when they signed the Proof of Loss. Sections 295.33 and 295.34 explain this flexibility. These sections will be applied equitably, not arbitrarily.

If a Claimant is not prepared to sign a Proof of Loss, for good cause, an extension may be requested from the Director of OCGFC. Extensions will not be granted automatically but only on consideration of the equities in the request. Alternatively, the Claimant may withdraw the claim, repay any partial payment and re-file the claim once before August 28, 2002, when the losses are better defined. If a Claimant does not complete the Proof of Loss within the timeframes specified in the final rule or obtain an extension, OCGFC may administratively close the claim and require the Claimant to repay any partial payment that we made on the claim.

The Authorized Official's Determination

The CGFAA gives us 180 days from the date when a Notice of Loss is submitted to determine the compensation due to a Claimant. This provision assumes that the Claimant will fully cooperate with FEMA in the adjudication of the claim. We will try to process claims in less than 180 days, but may require the full 180-day period in many cases. Partial payments are intended to ease the burden on the Claimant during this period.

A commenter asked several questions about the Authorized Officials. The Authorized Officials are employees of FEMA who are responsible for deciding claims. The Authorized Officials make their decisions based upon the written information in the claim file using the criteria set forth in the CGFAA, these regulations and OCGFC policies. Hearings are not part of the Authorized Official's Determination process. While the Authorized Officials are permitted to contact the Claims Reviewers to clarify information in the claims file, they are not permitted to discuss the merits of a claim with the Claimant before making their decision. If a Claimant has questions about the status of a claim or Authorized Official's Determination, the Claimant should contact the Claims Reviewer, rather than the Authorized Official directly.

Release and Certification Form

We have added a new subsection (c) to § 295.30 concerning the Release and Certification Form. Authority for the Release and Certification Form provided by § 104(e) of the CGFAA. Some Claimants have suggested that they can keep their claims open indefinitely by refusing to sign the Release and Certification Form. We do not believe that this view is consistent with the letter or the spirit of the CGFAA, which encourages us to close claims expeditiously. Section 295.34 provides a limited mechanism for Claimants to reopen their claims after signing the Release and Certification Form.

Section 295.30(c) establishes deadlines for the return of a completed Release and Certification Form. If a Claimant does not request an Administrative Appeal of the Authorized Official's Determination, the Release and Certification Form should be returned within 120 days of the date that appears on the Authorized Official's Determination. If the Claimant brings an Administrative Appeal, arbitrates or seeks judicial review, the signed Release and Certification Form should be returned within 60 days of the date when the subsequent decision is not subject to further review (that is the date when no further appeals are available).

Section 104(e) of the CGFAA provides that at the end of the process the United States and employees of the United States are released from all claims and liabilities related to the Cerro Grande Fire and the compensation settlement is conclusive on the Claimant. However, the CGFAA does not bar the United States from recovering payments made to the Claimant after return of the Release and Certification Form.

[6] Subrogation Claimants under § 295.13 sign the Proof of Loss at the same time that the Notice of Loss is submitted. The Notice of Loss and Proof of Loss have been consolidated on a single form.

Claimants have complained to OCGFC about this apparent inconsistency. We find these concerns to be compelling. Claimants who choose to bring their claims under the Federal Tort Claims Act have the certainty that any settlement between the claimant and the United States will be final and binding on both parties, except in extraordinary cases. The CGFAA was intended to provide a more expeditious and less adversarial process for compensation than is available under the Federal Tort Claims Act. This objective will be severely compromised if we second-guess compensation decisions after the Claimant has accepted our final decision. Moreover, our failure to remedy the inconsistency may result in unnecessary arbitrations or judicial review of our decisions, since the decisions of arbitrators and judges are binding on the government.

Section 295.30(c) of the final rule provides that the United States will not attempt to recover monies paid to a Claimant who signs a Release and Certification Form, except in the event of fraud or misrepresentation by the Claimant or the Claimant's representative, a mistake on our part or the Claimant's failure to cooperate with audits as required by § 295.35. Federal law obligates us to attempt to recover payments made to the wrong party. We also may recover overpayments where we made a material mistake in calculation of the damages owed to the Claimant and in other appropriate cases.

Reimbursement of Claims Expenses

Section 295.31(a) addresses the circumstances in which we will reimburse a Claimant for reasonable costs of third party opinions obtained by the Claimant. It provides that we will do so only if we request that the Claimant procure the opinion. One commenter, a real estate development firm, suggested that we should reimburse Claimants for third-party opinions whenever valuation of land is at issue. The commenter was concerned that its claim might be denied if the Claimant failed to provide the opinion (because it was not requested by us) and we did not obtain one either. As noted earlier in the preamble, it is the Claimant's responsibility to develop and submit whatever evidence he or she thinks is appropriate to support the claim. Claims preparation expenses are not regarded as compensatory damages under New Mexico law or under the Federal Tort Claims Act. Similarly, they are not recoverable under the CGFAA. For these reasons, we believe that § 295.31(a) of the interim final rule accurately expresses our position on third party opinions.

The Rio Grande Chapter of the Appraisal Institute commented that its member appraisers sometimes need to consult with experts in other fields in order to render an opinion. They inquired whether we will reimburse Claimants for the charges of these other experts. If we request that a Claimant obtain a third party opinion and the expert selected by the Claimant believes that he or she must consult with other experts in order to render the opinion, the Claimant should notify the Claims Reviewer and provide an estimate of the total cost. We will not reimburse the Claimant for the cost of these other experts unless OCGFC has expressly approved their use

Fifteen commenters suggested that we should reimburse Claimants for the actual hours they have spent seeking compensation under the CGFAA. Most suggested that Claimants should be compensated at an uncapped hourly rate. We have carefully considered these comments, but we cannot accommodate them for several reasons. First and foremost, compensatory damages for time spent in claims preparation are not available under New Mexico law or the Federal Tort Claims Act. Moreover, there is no evidence that Congress intended that Claimants be compensated for the value of their time.

The open-ended compensation program suggested by the commenters would be difficult to administer. One difficulty we would face is how to determine equitably the value of a Claimant's time. Another is how to verify that Claimants have expended the number of hours that they are claiming. Our payments under the CGFAA are subject to independent audit by the General Accounting Office and our Inspector General. Claimants would likely find attempts by the auditors to verify the payment for hours spent in the claims process highly intrusive.

However, we are exercising our discretion under § 104(d)(4)(C)(ix) of the CGFAA to provide a lump sum payment to most individual and business Claimants for miscellaneous and incidental expenses incurred in the claims process. Claimants whose only fire related loss is the cost of a flood insurance premium are not eligible for the lump sum payment.

The decision to exercise this discretion was initially made through an OCGFC policy. The policy has been refined and incorporated into § 295.31(b). In response to comments on the policy, we are increasing the lump sum payment to 5% of the insured and uninsured loss (excluding flood insurance premiums), not to exceed $15,000. The minimum payment remains $100. We believe that § 295.31(b) represents a fair and reasonable accommodation between our responsibility to spend government funds wisely and our desire to compensate Claimants as fully as possible.

The lump sum payment under § 295.31(b) will be made after a properly executed Release and Certification Form is returned to OCGFC and cannot be obtained through partial payment. Claimants who suffered no Cerro Grande fire related loss but have applied to us for reimbursement of flood insurance premiums will not be eligible to receive the lump sum payment.

An insurance industry commenter suggested that insurance companies be eligible to receive a lump sum payment for each subrogation claim submitted. We disagree. Insurance companies are ordinarily compensated for the costs of pursuing subrogation claims through the premiums they collect from policyholders.

Supplementing and Reopening Claims

Sections 295.33 and 295.34 of the interim final rule address the procedures for supplementing and reopening claims. The final rule amends these sections to clarify and streamline the process. We are amending § 295.33, which provides for supplementing claims before the signing of a Release and Certification Form, along the following lines:

- Before signing the Proof of Loss, the Claimant may amend the Notice of Loss to seek compensation for Losses not mentioned on the Notice of Loss. Claimants who wish to amend the Notice of Loss should contact the Claims Reviewer. The additional Losses will be noted on the Proof of Loss and will be adjudicated in the Authorized Official's Determination.
- Once the Claimant has signed the Proof of Loss, he or she must obtain permission from the Director of OCGFC to amend the Notice of Loss. The Claimant should consult with the Claims Reviewer about the procedure for obtaining permission of Director of OCGFC. The Director of OCGFC will grant the request if it is supported by good cause. If the request is granted, the Director will determine whether compensation is due for the additional Loss under the Administrative Appeal procedures described in Subpart E. The additional Loss will not be considered until after the Authorized Official's Determination is issued on the remainder of the claim. If the Claimant decides to appeal the Authorized

Official's Determination on other Losses, the Director of OCGFC will decide both matters in a single appeal proceeding.

• Claimants are reminded that they *must* put OCGFC on notice of any Loss not mentioned on the initial Notice of Loss not later than August 28, 2002. This deadline was established by § 104(b) of the CGFAA. All amendments to Notices of Loss must be made in writing and submitted in accordance with OCGFC procedures. An amendment to a Notice of Loss must be received by August 28, 2002. A written request for permission to amend a Notice of Loss after the Proof of Loss is signed must be on file with the Director of OCGFC no later than August 28, 2002.

Section 295.34 provides for reopening claims after a Release and Certification Form is signed. The primary purpose of § 295.34 is to provide the Claimant with an opportunity to request damages in excess of those previously awarded, not to raise Losses for the first time. However, in appropriate cases, the Claimant can use the reopener provision to seek compensation for a Loss not previously reported to us provided that the Claimant files the request to reopen not later than August 28, 2002.

We are amending § 295.34 to clarify that the Claimant may reopen a claim for the reasons stated in subsections (a)(1), (2) and (3) as a matter of right, provided that the request is timely filed. Requests to reopen for the reasons stated in subsection (a)(4) will only be granted in the Director's discretion. The Director of OCGFC may establish a cutoff for filing requests to reopen under subsections (a)(3) and (4). Reopened claims will not be decided by the Director of the OCGFC but by an Authorized Official, after considering the recommendation of the Claims Reviewer. Claimants who are dissatisfied with the Authorized Official's Determination on the reopened claim may appeal to the Director of OCGFC.

One commenter suggested that the Director's discretionary decision to reopen or not reopen a claim under § 295.34(a)(4) is subject to review by an arbitrator. We disagree. Arbitration under the CGFAA is available only if a Claimant is dissatisfied with the damages that have been awarded by FEMA. The Director's decision to reopen or not reopen a claim is not subject to review under the arbitration provisions of Subpart E.

Subpart E

All of the comments pertaining to Subpart E addressed the arbitration provisions that appear in § 295.42. The interim final rule invited comment on the size and composition of arbitration panels. The responders suggested that arbitration panels consist of three members, one selected by each party and the third selected by the two arbitrators. We considered these suggestions but note that like the provision in the interim final rule, this process would place only one neutral arbitrator on each panel. However, we acknowledge the concern that larger panels should decide larger disputes and are amending § 295.42(d) in response to the comments. If the amount in controversy in an arbitration is $300,000 or less, the dispute will be heard by one arbitrator selected by the Claimant in the manner prescribed by the interim final rule. However, if the amount in controversy exceeds $300,000, three arbitrators selected at random by the Alternate Dispute Resolution Office will decide the dispute. We have adopted random selection to assure that the entire panel will be neutral. This is similar to the way that U.S. District Court Judges in the District of New Mexico are assigned cases.

All arbitrators will be selected from the Alternate Dispute Resolution Office's list of qualified arbitrators. Some commenters expressed concern about the objectivity of arbitrators pre-qualified by our Alternate Dispute Resolution Office. Our Alternate Dispute Resolution Office is a neutral office that encourages the use of alternative dispute resolution mechanisms.

The Alternate Dispute Resolution Office invited nominations for the Cerro Grande arbitration panel from numerous individuals involved in alternative dispute resolution in New Mexico. These individuals hold leadership roles in the New Mexico State Court System, the Office of the Chief Circuit Mediator for the Tenth Circuit, U.S. Court of Appeals, the American Bar Association, and the State Bar of New Mexico. The Alternate Dispute Resolution Office advises that the list of qualified arbitrators will be finalized shortly. Once finalized, biographies of each of the arbitrators will be posted on the OCGFC Internet site and available from the Alternate Dispute Resolution Office.

Subpart F

Section 295.21(c) of the interim final rule provided that lump sum payments awarded for future damages will be "discounted to present value." One commenter asked for a definition. A definition, derived from § 13–1822 of the New Mexico Uniform Jury Instructions (Civil), has been added to § 295.50 of the final rule. Discounting to present value is widely used by courts in New Mexico and elsewhere when calculating a single payment of damages for losses that are likely to be sustained over a long period of time. The mathematical calculation assumes that a significant part of the damage award will be invested at the time that the award is received and funds will be drawn down over a period of time as needed to replace a lost item or service. Discounting reduces damages by the amount of investment income the recipient is likely to receive before he or she spends the money to replace what was lost. We intend to discount damages to present value only where losses are likely to be realized over a long period of time, e.g., long-term business losses and long-term subsistence losses. We do not intend to discount damages paid to rebuilding homeowners.

The term "Loss" has been defined in § 295.50 of the final rule. The defined term "Injury," which previously appeared in § 295.50, has been deleted and subsumed into the definition of Loss. The import of this change is discussed in the section of this preamble that addresses Subpart A of the rule.

The term "Replacement Cost" also is defined. The definition in § 295.50 of the final rule is similar to that which appeared in the preamble to the interim final rule at 65 FR 52261 (August 28, 2000).

National Environmental Policy Act

This final rule involves claims and payment of claims to persons injured as a result of the Cerro Grande fire. Such claims will be paid with no substantive relation to the claimant's subsequent use of the money for prescribed activities and with no limitations on how claimants will use the money. Such activities under the rule are not subject to the National Environmental Policy Act (NEPA). The final rule provides for compensation to mitigate future damages. FEMA has prepared a list of mitigation measures that are consistent with the agency's existing NEPA categorical exclusions. Claimants may propose other mitigation measures. We cannot identify what those measures will be and cannot perform a NEPA review at this stage. As claimants propose mitigation expenditures each will be subject to NEPA review. FEMA reserves the discretion to deny funding for mitigation expenditures which do not fall within a categorical exclusion or to conduct more extensive environmental review, if warranted. We

have not prepared an environmental assessment of this final rule.

Paperwork Reduction Act

This final rule contains several information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under the Paperwork Reduction Act, a person may not be penalized for failing to comply with an information collection that does not display a currently valid OMB control number.

At the time we published the interim final rule in the **Federal Register**, we submitted several information collections to OMB for emergency approval and obtained an OMB number and expiration date for the following collections:

Notice of Loss, OMB number 3067–0280, Expiration Date 04/30/01. This form has been revised and will be submitted to OMB for a second emergency approval under the provisions of 5 CFR 1320.13, Emergency Processing. The request will allow us to use the revised Notice of Loss form while we seek your comments.

Proof of Loss, OMB number 3067–0282, expiration date 3/31/01. This form was submitted to OMB under their emergency processing procedures and will be resubmitted to allow us to use the Proof of Loss form while we seek your comments.

Subrogation and Proof of Loss, OMB number 3067–0284, expiration date 04/30/01. This form will be resubmitted to OMB under their emergency processing procedures to allow us to use the Subrogation and Proof of Loss form while we seek your comments.

A new information collection titled "Request for Mitigation Assistance" will be submitted to OMB for emergency processing. OMB's approval to use this series of forms will allow us to collect data while we seek your comments on this form.

Local governments with land use regulatory authority or Indian tribes that want specific mitigation measures to reduce the heightened risks of wildfire, flood or other natural hazards resulting from the Cerro Grande Fire or that seek compensation for the cost of such measures expended before August 28, 2000, or both, will have to submit a Mitigation Compensation Plan (Plan). The Plan must be in writing and may address property specific mitigation measures and community level mitigation measures. We do not prescribe any specific data requirements and rely on the governmental entity to develop the content of the plan. Because we do not prescribe specificity of data elements for inclusion in the Plan, we have determined that it is not subject to the OMB Paperwork Reduction Act clearance process and will not submit a clearance package for approval.

Claimants will have to execute a Release and Certification Form, which is a document that a Claimant must complete and return in order to receive payment of compensation awarded pursuant to the CGFAA. These forms require minimal time and effort to complete and are exempt from the Information Collection Provisions of the Paperwork Reduction Act under OMB guidance.

These OMB clearance packages will be submitted to OMB no later than March 19, 2001 for approval under 5 CFR 1320.13 by March 26, 2001.

This rule serves as the notice for the 60-day and 30-day comment period for the publication of final rules with information collections that have not received final approval by OMB. At the end of the 60-day comment period, we will consider the comments that you submit and may make changes to the form as needed. At the conclusion of the comment period, we will resubmit these clearance packages to OMB for a three-year approval. We will not implement the new or revised collections until OMB approves them and assigns them an OMB control number.

Supplementary Information. This collection is in accordance with our responsibilities under 44 CFR 295 to provide assistance to claimants who were injured as a result of the Cerro Grande fire. The funds that we provide will help to alleviate the suffering and damage that resulted from the Cerro Grande fire.

Collections of Information.

Title	Type of information collection	OMB No.	Abstract
Notice of Loss—Cerro Grande Fire Assistance Acts.	Revision of a currently approved collection.	3067–0280	The Notice of Loss under the Cerro Grande Fire Assistance Act—claimant makes a binding, conclusive and irrevocable election to have all injuries from the Cerro Grande Fire reviewed by us for compensation under the CGFAA.
Interview	Extension of a currently approved collection.	3067–0280	Once a Claimant files a Notice of Loss, the Claimant and the Claims Reviewer meet to discuss the nature of the loss sustained by the Claimant, the Claimant's documentation, insurance claims made, to be made, or insurance payments that the Claimant has received, and other documents such as affidavits that FEMA may need to substantiate the claims.
Documentation of Claims.	Extension of a currently approved collection.	3067–0280	Following the interview the Claimant and the Claims Reviewer may work both independently and together to obtain the documentation needed to substantiate the claims.
Subrogation Notice and Proof of Loss Form—Cerro Grande Fire Assistance Claims.	Extension of a currently approved collection.	3067–0284	The Subrogation Notice of Loss under the Cerro Grand Fire Assistance Act form—an insurance company makes a binding conclusive and irrevocable election to have all subrogation claims of the company from the Cerro Grande Fire reviewed by FEMA for compensation under the CGFAA.
Proof of Loss—Cerro Grande Fire Assistance Claims.	Extension of a currently approved collection.	3067–0282	The Proof of Loss form is a statement, signed by a Claimant under the penalty of perjury and subject to provisions of 18 U.S.C. 1001 that the claim is true and correct, attesting to the nature and extent of the Claimant's injuries.
Request for Mitigation Assistance.	New		Claimants may submit a Request for Mitigation Assistance to request mitigation funding in connection with rebuilding a damaged or destroyed structure. The funding will be a maximum of 15 percent of the amount compensated for replacement, repair or restoration the structure and the land from all sources.

Title	Number of respondents	Average hours per response	Estimated annual burden hours
Notice of Loss—Cerro Grande Fire Assistance Acts	18,000	0.75 hour or 45 minutes	13,500
Interview	18,000	Range from 1.5 to 2 hours	27,000–36,000
Documentation of Claims	18,000	20 hours	360,000
Subrogation Notice and Proof of Loss Form—Cerro Grande Fire Assistance Claims.	12,000	1.5 hours	18,000
Proof of Loss—Cerro Grande Fire Assistance Claims	18,000	0.5 hour	9,000
Request for Mitigation Assistance	1,800	3 hours	5,400
Estimated total			441,900

Affected Public: State, local and tribal governments, private sector businesses, not-for-profit organizations, and individuals and households. The information collections are used to allow claimants to apply for compensation under the Cerro Grande Fire Assistance Act.

Comments: We ask for written comments to: (a) Evaluate whether the proposed data collection is necessary for the Agency's proper performance of the program, including whether the information will have practical utility; (b) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Please send comments on or before May 21, 2001.

Addresses: Interested persons should submit written comments to the Desk Officer for the Federal Emergency Management Agency, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 on or before April 20, 2001. We will continue to accept comments through May 21, 2001. Please send written comments on the information collections, including our burden estimates to Muriel B. Anderson, Chief, Records Management Branch, Program Services Division, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., room 316, Washington, DC 20472, (telephone) (202) 646–2625, (facsimile) (202) 646–3347, or (e-mail) muriel.anderson@fema.gov.

Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

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

We have determined that this rule is a "significant regulatory action" under the terms of Executive Order 12866. It will have an annual effect on the economy of more than $100 million, but we do not expect it to affect adversely in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule and its underlying statute are designed to compensate individuals, businesses, not-for-profit organizations, State, local, and tribal governments or communities for injuries as a result of the Cerro Grande fire. Because of the urgent requirement to meet and settle the needs of persons injured as a result of the Cerro Grande fire and in order to comply with the mandates of the CGFAA, we have not prepared a regulatory analysis of the rule.

The Office of Management and Budget (OMB) has reviewed the final rule under Executive Order 12866.

Executive Order 12898, Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 FR 7629, February 16, 1994, we have undertaken to incorporate environmental justice into our policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin. No action that we can anticipate under the final rule will have a disproportionately high and adverse human health and environmental effect on any segment of the population. In addition, the final rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of the Executive Order do not apply to this final rule.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

We have reviewed the final rule under Executive Order 13175, which became effective on February 6, 2001. We expect that several pueblos and individual members of tribes will seek compensation under the final rule for Cerro Grande fire-related losses, including compensation for lost subsistence from hunting, fishing, firewood gathering, timbering, grazing or agricultural activities conducted on land damaged by the Cerro Grande fire. One of these pueblos submitted written comments to the rulemaking docket. We find that the final rule does not have "tribal implications" as defined in

Executive Order 13175 because it will 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. Moreover, the final rule does not impose substantial direct compliance costs on tribal governments, nor does it preempt tribal law, impair treaty rights or limit the self-governing powers of tribal governments.

Executive Order 13132, Federalism

This Executive Order sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed final rule under E.O.13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule establishes the procedures and criteria for claimants, including the State of New Mexico, to apply for Federal compensation for injuries as a result of the Cerro Grande fire. It neither limits nor preempts any policymaking discretion of the State that the State might otherwise have.

Congressional Review of Agency Rulemaking

We have sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801–808. The rule is a "major rule" within the meaning of that Act. It will result in an annual effect on the economy of $100,000,000 or more. However, we do not expect that it will result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor do we expect that it will have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

In compliance with § 808(2) of the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 808(2), for good cause we find that notice and public procedure on this final rule are impracticable, unnecessary, or contrary to the public interest in light of the urgent requirement to meet the needs of persons injured as a result of the Cerro Grande fire, expedite resolution of claims, and in order to comply with the mandates of the Cerro Grande Fire Assistance Act. Accordingly, this final rule is effective on March 21, 2001.

Administrative Procedure Act Determination

The Cerro Grande Fire Assistance Act provides FEMA with 180 days to determine the compensation due to the Claimant. The interim final rule required that Claimants accept FEMA's determination or appeal it within 120 days of the date upon which it is made. The 180 day deadline for Claimants who filed claims immediately prior to or immediately after publication of the interim final rule ran in late February 2001. Many of these claimants feel that they need to review the final rule before deciding whether to accept or appeal FEMA's determination. Other Claimants have delayed submission of the Proof of Loss awaiting the final regulations. The New Mexico congressional delegation has encouraged FEMA to publish the final rule expeditiously and make it effective with all deliberate speed. The primary purpose of the CGFAA is to provide Claimants with expeditious compensation for their losses. FEMA believes that this objective will be compromised if the effective date of the final rule were delayed for an additional 30 days. In accordance with 5 U.S.C. 553(d)(3), I find that there is good cause for the final rule to take effect immediately upon publication in the **Federal Register** in order to meet the urgent needs of those injured as a result of the Cerro Grande fire and to comply with the mandates of the Cerro Grande Fire Assistance Act.

List of Subjects in 44 CFR Part 295

Administrative practice and procedure, Aliens, Claims, Disaster assistance, Federally affected areas, Indians, Indians-lands, Indians-tribal government, Organization and functions (Government agencies), Public lands, Reporting and recordkeeping requirements, State and local governments.

Accordingly, the Federal Emergency Management Agency amends 44 CFR Chapter I by revising subchapter E, consisting of part 295, to read as follows:

SUBCHAPTER E—CERRO GRANDE FIRE ASSISTANCE

PART 295—CERRO GRANDE FIRE ASSISTANCE

Subpart A—General

Subpart B—Bringing a Claim under the CGFAA

Subpart C—Compensation Available under the CGFAA

Subpart D—Claims Evaluation

Subpart E—Dispute Resolution

Subpart F—Glossary

Authority: Pub. L. 106–246, 114 Stat. 511, 584; Reorganization Plan No. 3 of 1978, 43 FR 41493, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412.

Subpart A—General

§ 295.1 Purpose.

This part implements the Cerro Grande Fire Assistance Act (CGFAA), Public Law 106–246, 114 Stat. 584, which requires that the Federal Emergency Management Agency (FEMA) establish a process to evaluate, process and pay claims injuries and property damage resulting from the Cerro Grande Fire.

§ 295.2 Policy.

It is our policy to provide for the expeditious resolution of meritorious claims through a process that is administered with sensitivity to the

burdens placed upon Claimants by the Cerro Grande Fire.

§ 295.3 Information and assistance.

Information and assistance concerning the CGFAA is available from the Office of Cerro Grande Fire Claims (OCGFC), Federal Emergency Management Agency, P.O. Box 1480, Los Alamos, New Mexico, 87544–1480, or telephone 1–888–748–1853 (toll free). The Cerro Grande Fire Assistance site on the World Wide Web can be accessed at *http://www.fema.gov/cerrogrande*. In the interest of brevity, we do not restate the provisions of the CGFAA in most instances. Our website has a copy of the CGFAA and we will provide a copy upon request.

§ 295.4 Organization of this part 295.

This part contains six subparts. Subpart A provides an overview of the CGFAA process. Subpart B describes the procedures for bringing a claim. Subpart C explains what compensation is available. Subpart D discusses the claims evaluation process. Subpart E explains the dispute resolution process. Subpart F contains a glossary in which various terms used in the rule are defined.

§ 295.5 Overview of the claims process.

(a) The CGFAA is intended to provide persons who suffered losses from the Cerro Grande Fire with a simple, expedited process to seek redress from the United States. This section provides a brief explanation of the claims process for claims other than subrogation claims. It is not intended to supersede the more specific regulations that follow and explain the claims process in greater detail. In order to obtain benefits under this legislation, a person must submit all Cerro Grande Fire related claims against the United States to FEMA. A person who elects to proceed under the CGFAA is barred from bringing a claim under the Federal Tort Claims Act or filing a civil action against the United States for damages resulting from the Cerro Grande Fire. Judicial review of our decisions under the CGFAA is available.

(b) The first step in the process is to file a Notice of Loss with OCGFC. OCGFC will provide the Claimant with a written acknowledgement that the claim has been filed and the claim number.

(c) Shortly thereafter, a Claims Reviewer will contact the Claimant to review the claim. The Claims Reviewer will help the Claimant formulate a strategy for obtaining any necessary documentation or other support. This assistance does not relieve the Claimant of his or her responsibility for establishing all elements of the Loss and the compensatory damages that are sought, including that the Cerro Grande Fire caused the Loss. After the Claimant has had an opportunity to discuss the claim with the Claims Reviewer, a Proof of Loss will be presented to the Claimant for signature. After any necessary documentation has been obtained and the claim has been fully evaluated, the Claims Reviewer will submit a report to the Authorized Official. The Claims Reviewer is responsible for providing an objective evaluation of the claim to the Authorized Official.

(d) The Authorized Official will review the report and determine whether compensation is due to the Claimant. The Claimant will be notified in writing of the Authorized Official's Determination. If the Claimant is satisfied with the decision payment will be made after the Claimant returns a completed Release and Certification Form. If the Claimant is dissatisfied with the Authorized Official's Determination an Administrative Appeal may be filed with the Director of OCGFC. If the Claimant remains dissatisfied after the appeal is decided, the dispute may be resolved through binding arbitration or heard in the United States District Court for the District of New Mexico.

§ 295.6 Partial payments.

OCGFC, on its own initiative, or in response to a request by a Claimant, may make one or more partial payments on the claim. A partial payment can be made if OCGFC has a reasonable basis to estimate the Claimant's damages. Acceptance of a partial payment in no way affects a Claimant's ability to pursue an Administrative Appeal of the Authorized Official's Determination or to pursue other rights afforded by the CGFAA. Partial payment decisions cannot be appealed.

§ 295.7 Authority to settle or compromise claims.

Notwithstanding any other provision of these regulations, the Director of OCGFC may extend an offer to settle or compromise a claim or any portion of a claim, which if accepted by the Claimant will be binding on the Claimant and on the United States, except that the United States may recover funds improperly paid to a Claimant due to fraud or misrepresentation on the part of the Claimant or the Claimant's representative, a material mistake on our part or the Claimant's failure to cooperate in an audit as required by § 295.35.

Subpart B—Bringing a Claim Under the CGFAA

§ 295.10 Bringing a claim under the CGFAA.

(a) Any Injured Person may bring a claim under the CGFAA by filing a Notice of Loss. A claim submitted on any form other than a Notice of Loss will not be accepted. The Claimant must provide a brief description of each Loss on the Notice of Loss.

(b) A single Notice of Loss may be submitted on behalf of a Household containing Injured Persons provided that all Injured Persons on whose behalf the claim is presented are identified.

(c) The Notice of Loss must be signed by each Claimant, if the Claimant is an individual or by a duly authorized legal representative of each Claimant, if the Claimant is an entity or an individual who lacks the legal capacity to sign the Notice of Loss. If one is signing a Notice of Loss as the legal representative of a Claimant, the signer must disclose his or her relationship to the Claimant. FEMA may require a legal representative to submit evidence of authority.

(d) Notice of Loss forms are available from OCGFC by request. They may be obtained through the mail, in person at the OCGFC office or by telephone request. The Notice of Loss form can also be downloaded from the Internet at http://www.fema.gov/ cerrogrande.

(e) Notices of Loss may be filed with OCGFC by mail to P.O. Box 1480, Los Alamos, NM 87544–1480. OCGFC is unable to accept Notices of Loss submitted by facsimile or e-mail.

(f) A Notice of Loss that is completely filled out and properly signed is deemed to be filed on the date it is received by OCGFC.

§ 295.11 Deadline for notifying FEMA of losses.

The deadline for filing a Notice of Loss is August 28, 2002. Except as provided in § 295.21(d) with respect to mitigation and in § 295.31(b) with respect to the lump sum payment described therein, a Loss that has not been described: on a Notice of Loss, on a supplement to a Notice of Loss or a request to supplement a Notice of Loss under § 295.33, or a request to reopen a claim under § 295.34, received by OCGFC on or before August 28, 2002 cannot be compensated under the CGFAA. The CGFAA establishes this deadline and does not provide any extensions of the filing deadline.

§ 295.12 Election of remedies.

(a) By filing a Notice of Loss, an Injured Person waives the right to seek redress for Cerro Grande Fire related claims against the United States through the Federal Tort Claims Act or by filing a civil action authorized by any other provision of law.

(b) An Injured Person who files a Federal Tort Claims Act claim or who initiates a civil action against the United States or any officer, employee or agent of the United States relating to the Cerro Grande Fire on or after August 28, 2000 is not eligible under the CGFAA to file a Notice of Loss.

(c) An Injured Person who filed before August 28, 2000 a Federal Tort Claims Act claim or a civil action against the United States for injuries, losses or damages relating to the Cerro Grande Fire may file a Notice of Loss provided that the Federal Tort Claims Act claim is withdrawn or the Injured Person is dismissed as a party to the civil action with prejudice not later than October 27, 2000. The withdrawal of a Federal Tort Claims Act claim must be in the form of a signed, written statement on a form provided by OCGFC that is filed with OCGFC not later than October 27, 2000. OCGFC will promptly forward the original notice of withdrawal to the applicable federal agency and retain a copy in the Claimant's file.

§ 295.13 Subrogation.

An insurer or other third party with the rights of a subrogee, who has compensated an Injured Person for Cerro Grande Fire related losses, may file a Subrogation Notice of Loss under the CGFAA for the subrogated claim. An insurer or other third party with the rights of a subrogee may file a Subrogation Notice of Loss without regard to whether the Injured Party who received payment from the insurer or third party filed a Notice of Loss. A Subrogation Notice of Loss may not be filed until the insurer or other party with the rights of a subrogee has made all payments that it believes the Injured Person is entitled to receive for Cerro Grande Fire related losses under the terms of the insurance policy or other agreement between the insurer or other party with the rights of a subrogee and the Injured Person. By filing a Subrogation Notice of Loss for any subrogated claim, the insurer or third party elects the CGFAA as its exclusive remedy against the United States for all subrogated claims arising out of the Cerro Grande Fire. Subrogation claims must be made on a Subrogation Notice of Loss form furnished by OCGFC. FEMA will evaluate subrogation claims on their merits. FEMA may reimburse insurers and other third parties with the rights of a subrogee for reasonable payments made to an Injured Party on or before October 25, 2000, which exceeded or were not required by the terms of the insurance policy or other agreement creating a right of subrogation. FEMA will not reimburse insurers and other third parties with the rights of a subrogee for payments made to an Injured Party after October 25, 2000 that exceeded or are not required by the terms of the insurance policy or other agreement creating a right of subrogation.

§ 295.14 Assignments.

Assignment of claims and the right to receive compensation for claims under the CGFAA is prohibited and will not be recognized by FEMA.

Subpart C—Compensation Available Under the CGFAA

§ 295.20 Prerequisite to compensation.

In order to receive compensation under the CGFAA a Claimant must be an Injured Person who suffered a Loss as a result of the Cerro Grande Fire and sustained damages.

§ 295.21 Allowable compensation.

(a) *Allowable compensation.* The CGFAA provides for the payment of compensatory damages. Compensatory damages are "real, substantial and just money damages established by the Claimant in compensation for actual or real injury or loss." In general, an Injured Person will be compensated for Losses to the same extent that the plaintiff in a successful tort action brought against a private party under the laws of the State of New Mexico would be compensated. In addition the CGFAA permits FEMA to compensate Injured Parties for certain categories of "loss of property," "business loss," and "financial loss," which are enumerated in the CGFAA. Damages must be reasonable in amount. Claimants must take reasonable steps to mitigate (reduce) their damages, if possible, as required by New Mexico tort law.

(b) *Exclusions.* Except as otherwise provided in the CGFAA, a Claimant will not receive compensation for any injury or damage that is not compensable under the Federal Tort Claims Act and New Mexico law. Punitive damages, statutory damages under § 30–32–4 of the New Mexico Statutes Annotated (1978), interest on claims, attorney's fees and agents' fees incurred in prosecuting a claim under the CGFAA or an insurance policy, adjusting costs incurred by an insurer or other third party with the rights of a subrogee, and taxes that may be owed by a Claimant as a consequence of receiving an award are not recoverable from FEMA. The cost to a Claimant of prosecuting a claim under the CGFAA does not constitute compensatory damages and is not recoverable from FEMA, except as provided in § 295.31(b).

(c) *Damages arising in the future.* In the event that a lump sum payment is awarded to a Claimant for future damages the amount of the payment will be Discounted to Present Value.

(d) *Destruction of home—*

(1) *Home and contents.* Compensatory damages for the Destruction of a Home may include the reasonable cost of reconstructing a home comparable in design, construction materials, size and improvements to the home that was lost taking into account post-fire construction costs in the community in which the home existed before the fire and current building codes and standards. Compensatory damages may also include the cost of removing debris and burned trees, stabilizing the land, replacing household contents, and compensation for any decrease in the value of land on which the structure sat pursuant to paragraph (e) of this section.

(2) *Trees and landscaping.* Compensation for the Replacement Cost of destroyed trees and landscaping will be limited to 25% of the pre-fire value of the structure and lot.

(3) *Mitigation.* If requested by a Claimant, FEMA may compensate a Claimant for the reasonable cost of mitigation measures that will reduce the property's vulnerability to the future risk of wildfire, flood or other natural hazards related to the Cerro Grande Fire. Mitigation compensation made available under this section may not exceed fifteen percent of payments from all sources (i.e., CGFAA, insurance proceeds, FEMA assistance under the Stafford Act) for damage to the structure and lot. The Claimant must obtain all government permits, approvals and clearances required by applicable law, ordinance or regulation before constructing the mitigation measures. The mitigation measures must be reviewed by FEMA under applicable environmental and historic preservation laws. Claimants must construct the mitigation measures for which they have received compensation.

(e) *Reduction in the value of real property.* Compensatory damages may be awarded for reduction in the value of real property that a Claimant owned before the fire if:

(1) The Claimant sells the real property in a good faith arm's length transaction that is closed no later than

August 28, 2002 and realizes a loss in the pre-fire value; or

(2) The Claimant can establish that the value of the real property was permanently diminished as a result of the Cerro Grande Fire.

(f) *Destruction of unique items of personal property.* Compensatory damages may be awarded for unique items of personal property that were destroyed as a result of the Cerro Grande Fire. If the item can be replaced in the current market, the cost to replace the item will be awarded. If the item cannot be replaced in the current market, its fair market value on the date it was destroyed will be awarded.

(g) *Disaster recovery loans.* FEMA will reimburse Claimants awarded compensation under the CGFAA for interest paid on Small Business Administration disaster loans and similar loans obtained after May 4, 2000. Interest will be reimbursed for the period beginning on the date that the loan was taken out and ending on the date when the Claimant receives a compensation award (other than a partial payment). Claimants are required to use the proceeds of their compensation awards to repay Small Business Administration disaster loans. FEMA will cooperate with the Small Business Administration to formulate procedures for assuring that Claimants repay Small Business Administration disaster loans contemporaneously with the receipt of CGFAA compensation awards.

(h) *Mitigation.* FEMA may compensate Claimants for the cost of reasonable and cost-effective efforts incurred on or before August 28, 2003 to mitigate the heightened risks of wildfire, flood or other natural disaster resulting from the Cerro Grande Fire that are consistent with a OCGFC-approved Mitigation Compensation Plan. No more than 15% of the total amount appropriated by Congress for the payment of Cerro Grande fire related claims may be allocated for mitigation compensation under this subsection. Claimants seeking compensation under this provision must file a Notice of Loss under § 295.10 or amend a Notice of Loss previously filed under § 295.33 or § 295.34. The Notice of Loss or amendment must specify that compensation for mitigation is sought. The Notice of Loss must be filed or a proposed amendment under § 295.33 or § 295.34 submitted no later than August 28, 2002. A separate request for mitigation assistance must be filed with OCGFC no later than August 28, 2003. Claimants must construct the mitigation measures for which they have received compensation.

(i) *Subsistence*—(1) *Allowable damages.* FEMA may reimburse an Indian tribe, a Tribal Member or a Household Including Tribal Members for the reasonable cost of replacing Subsistence Resources customarily and traditionally used by the Claimant on or before May 4, 2000, but no longer available to the Claimant as a result of the Cerro Grande Fire. For each category of Subsistence Resources, the Claimant must elect to receive compensatory damages either for the increased cost of obtaining Subsistence Resources from lands not damaged by the Cerro Grande Fire or for the cost of procuring substitute resources in the cash economy. Long-term damage awards will be made in the form of lump sum cash payments to eligible Claimants.

(2) *Proof of subsistence use.* FEMA may consider evidence submitted by Claimants, Indian Tribes and other knowledgeable sources in determining the nature and extent of a Claimant's subsistence uses.

(3) *Duration of damages.* Compensatory damages for subsistence losses will be paid for the period between May 4, 2000 and the date when Subsistence Resources can reasonably be expected to return to the level of availability that existed before the Cerro Grande Fire. FEMA may rely upon the advice of experts in making this determination.

(j) *Flood Insurance.* A Claimant that owned or leased real property in the counties of Los Alamos, Rio Arriba, Sandoval or Santa Fe at the time of the Cerro Grande Fire who was not required by law to maintain flood insurance before the fire and who did not maintain flood insurance before the fire may be reimbursed by FEMA for reasonable flood insurance premiums incurred during the period beginning May 12, 2000 and ending May 12, 2002 on the owned or leased real property. Alternatively, FEMA may provide flood insurance to such Claimants directly through a group or blanket policy.

(k) *Out of Pocket Expenses for Treatment of Mental Health Conditions.* FEMA may reimburse an individual Claimant for reasonable out of pocket expenses incurred for treatment of a mental health condition rendered by a licensed mental health professional, which condition resulted from the Cerro Grande Fire and which could not be effectively addressed through no-cost crisis counseling services available in the community. FEMA will not reimburse for treatment rendered after December 31, 2001.

(l) *Donations.* FEMA will compensate individual or business Claimants in the counties of Los Alamos, Rio Arriba, Sandoval and Santa Fe (including those located on pueblos and Indian reservations) for the cost of merchandise, use of equipment or other non-personal services, directly or indirectly donated to survivors of the Cerro Grande Fire not later than June 19, 2000. Donations will be valued at cost. FEMA will also compensate businesses located in the counties of Los Alamos, Rio Arriba, Sandoval and Santa Fe (including those located on pueblos and Indian reservations) for discounts offered to fire survivors on goods and services not later than June 19, 2000 provided that actual revenues earned by the business during the period May 1–June 30, 2000 did not exceed reasonable projections for the period and the shortfall between actual revenues and reasonable projections resulted from the Cerro Grande Fire. Compensation will be the difference between the Claimant's established post-fire price for the good or service actually charged to the general public and the post-fire discounted price charged to fire survivors.

(m) *Duplication of benefits.* The CGFAA allows FEMA to compensate Injured Parties only if their damages have not been paid or will not be paid by insurance or a third party.

(1) *Insurance.* Claimants who carry insurance will be required to disclose the name of the insurer(s) and the nature of the insurance and provide OCGFC with such insurance documentation as OCGFC reasonably requests.

(2) *Coordination with our Public Assistance program.* Injured Parties eligible for disaster assistance under our Public Assistance Program are expected to apply for all available assistance. Compensation will not be awarded under the CGFAA for:

(i) Emergency costs that are eligible for reimbursement under the Public Assistance Program; or

(ii) Losses that are eligible for repair, restoration or replacement under the Public Assistance Program; or

(iii) Costs or charges determined excessive under the Public Assistance Program.

(3) *Benefits provided by non-governmental organizations and individuals.* Unless otherwise provided by these regulations, disaster relief payments made to a Claimant by a non-governmental organization or an individual, other than wages paid by the Claimant's employer or insurance payments, will be disregarded in evaluating claims and need not be disclosed to OCGFC by Claimants.

(4) *Benefits provided by our Individual Assistance program.*

Compensation under the CGFAA will not be awarded for losses or costs that have been reimbursed under the Individual and Family Grant Program or any other FEMA Individual Assistance Program.

(5) *Worker's compensation claims.* Individuals who have suffered injuries that are compensable under State or Federal worker's compensation laws must apply for all benefits available under such laws.

Subpart D—Claims Evaluation

§ 295.30 Establishing Losses and damages.

(a) *Burden of Proof.* The burden of proving Losses and damages rests with the Claimant. A Claimant may submit for the Administrative Record a statement explaining why the Claimant believes that the Losses and damages are compensable and any documentary evidence supporting the claim. Claimants will provide documentation, which is reasonably available, to corroborate the nature, extent and value of their losses and/or to execute affidavits in a form established by OCGFC. FEMA may compensate a Claimant for a Loss in the absence of supporting documentation, in its discretion, on the strength of an affidavit or Proof of Loss executed by the Claimant, if documentary evidence substantiating the loss is not reasonably available. FEMA may request that a business Claimant execute an affidavit, which states that the Claimant will provide documentary evidence, including but not limited to income tax returns, if requested by our Office of the Inspector General or the General Accounting Office during an audit of the claim.

(b) *Proof of Loss.* All Claimants are required to attest to the nature and extent of each Loss for which compensation is sought in the Proof of Loss. The Proof of Loss, which will be in a form specified by OCGFC, must be signed by the Claimant or the Claimant's legal representative if the Claimant is a not an individual or is an individual who lacks the legal capacity to execute the Proof of Loss. The Proof of Loss must be signed under penalty of perjury and subject to the provisions of 18 U.S.C.1001, which establishes penalties for false statements. Non-subrogation Claimants who filed a Notice of Loss before January 1, 2001 should submit a signed Proof of Loss to OCGFC not later than June 19, 2001. Non-subrogation Claimants who file a Notice of Loss on or after January 1, 2001 should submit a signed Proof of Loss to OCGFC not later than 150 days after the date when the Notice of Loss was submitted. These deadlines may be extended at the discretion of the Director of OCGFC for good cause. If a non-subrogation Claimant fails to submit a signed Proof of Loss within the timeframes set forth in this section and does not obtain an extension from the Director of OCGFC, OCGFC may administratively close the claim and require the Claimant to repay any partial payments made on the claim. Subrogation Claimants will submit the Proof of Loss contemporaneously with filing the Notice of Loss.

(c) *Release and Certification Form.* All Claimants who receive compensation under the CGFAA are required to sign a Release and Certification Form. The Release and Certification Form must be executed by the Claimant or the Claimant's legal representative if the Claimant is an entity or lacks the legal capacity to execute the Release and Certification Form. The Release and Certification Form must be received by OCGFC within 120 days of the date when the Authorized Official's Determination is rendered under § 295.32, or if subsequent proceedings occur under Subpart E of these regulations, not later than 60 days after the date when further review of the decision (if available) is precluded. The United States will not attempt to recover compensatory damages paid to a Claimant who has executed and returned a Release and Certification Form within the periods provided above, except in the case of fraud or misrepresentation by the Claimant or the Claimant's representative, failure of the Claimant to cooperate with an audit as required by § 295.35 or a material mistake by FEMA.

§ 295.31 Reimbursement of claim expenses.

(a) FEMA will reimburse Claimants for the reasonable costs they incur in copying documentation requested by OCGFC. FEMA will also reimburse Claimants for the reasonable costs they incur in providing appraisals, or other third-party opinions, requested by OCGFC. FEMA will not reimburse Claimant for the cost of appraisals, or other third party opinions, not requested by OCGFC.

(b) FEMA will provide a lump sum payment for incidental expenses incurred in claims preparation to individual and business Claimants that are awarded compensatory damages under the CGFAA after a properly executed Release and Certification Form has been returned to OCGFC. The amount of the lump sum payment will be the greater of $100 or 5% of CGFAA compensatory damages and insurance proceeds recovered by the Claimant for Cerro Grande Fire related losses (not including the lump sum payment or monies reimbursed under the CGFAA for the purchase of flood insurance), but will not exceed $15,000. No more than one lump sum payment will be made to all Claimants in a Household, regardless of whether the Household filed separate or combined Notices of Loss. The following Claimants will not be eligible to receive the lump sum payment: subrogation Claimants and Claimants whose only Cerro Grande Fire related loss is for flood insurance premiums.

§ 295.32 Determination of compensation due to claimant.

(a) *Authorized Official's report.* After OCGFC has evaluated all elements of a claim as stated in the Proof of Loss, the Authorized Official will issue, and provide the Claimant with a copy of, the Authorized Official's Determination.

(b) *Claimant's options upon issuance of the Authorized Official's determination.* Not later than 120 days after the date that appears on the Authorized Official's Determination, the Claimant must either accept the findings by submitting a Release and Certification Form to FEMA or initiate an Administrative Appeal in accordance with § 295.41. The CGFAA requires that Claimants sign the Release and Certification Form to receive payment on their claims (except for partial payments). The Claimant will receive payment of compensation awarded by the Authorized Official after FEMA receives the completed Release and Certification Form. If the Claimant does not either submit a Release and Certification Form to FEMA or initiate an Administrative Appeal no later than 120 Days after the date that appears on the Authorized Official's Determination, he or she will be conclusively presumed to have accepted the Authorized Official's Determination. The Director of OCGFC may modify the deadlines set forth in this subsection at the request of a Claimant for good cause shown.

§ 295.33 Supplementing claims.

A Claimant may amend the Notice of Loss to include additional claims at any time before signing a Proof of Loss. After the Claimant has submitted a Proof of Loss and before submission of the Release and Certification Form, a Claimant may request that the Director of OCGFC consider one or more Losses not addressed in the Proof of Loss. The request must be submitted in writing to the Director of OCGFC and received not later than the deadline for filing an Administrative Appeal under § 295.32

or August 28, 2002, whichever is earlier. It must be supported by the Claimant's explanation of why the Loss was not previously reported. If good cause is found to consider the additional loss, the Director will determine whether compensation is due to the Claimant for the Loss under the Administrative Appeal procedures described in § 295.41.

§ 295.34 Reopening a claim.

(a) The Director of OCGFC may reopen a claim if requested to do so by the Claimant, notwithstanding the submission of the Release and Certification Form, for the limited purpose of considering issues raised by the request to reopen if:

(1) The Claimant desires mitigation compensation and the request to reopen is filed not later than August 28, 2003 in accordance with § 295.21(d) or (h); or

(2) The Claimant closed the sale of real property not later than August 28, 2002 and wishes to present a claim for reduction in the value of the real property under § 295.21(e) and the request to reopen is filed not later than August 28, 2002; or

(3) The Claimant has incurred Replacement Costs under § 295.21(d) in excess of those previously awarded and is not prohibited by the terms of an agreement pertaining to home replacement with OCGFC from requesting that the case be reopened; or

(4) The Director of OCGFC otherwise determines that Claimant has demonstrated good cause.

(b) The Director of OCGFC may establish a deadline by which requests to reopen under paragraphs (a)(3) or (4) of this section must be submitted. The deadline will be published as a notice in the **Federal Register** and broadly disseminated throughout the communities, pueblos and Indian reservations in Los Alamos, Rio Arriba, Sandoval, and Santa Fe Counties.

§ 295.35 Access to records.

For purpose of audit and investigation, a Claimant will grant the FEMA Office of the Inspector General and the Comptroller General of the United States access to any property that is the subject of a claim and to any and all books, documents, papers, and records maintained by a Claimant or under the Claimant's control pertaining or relevant to the claim.

§ 295.36 Confidentiality of information.

Confidential information submitted by individual Claimants is protected from disclosure to the extent permitted by the Privacy Act. These protections are described in the Privacy Act Notice provided with the Notice of Loss. Other Claimants should consult with FEMA concerning the availability of confidentiality protection under exemptions to the Freedom of Information Act and other applicable laws before submitting confidential, proprietary or trade secret information.

Subpart E—Dispute Resolution

§ 295.40 Scope.

This subpart describes a Claimant's right to bring an Administrative Appeal in response to the Authorized Official's Determination. It also describes the Claimant's right to pursue arbitration or seek judicial review following an Administrative Appeal.

§ 295.41 Administrative appeal.

(a) *Notice of appeal.* A Claimant may request that the Director of OCGFC review the Authorized Official's Determination by written request to the Appeals Docket, Office of Cerro Grande Claims, P.O. Box 1480, Los Alamos, NM 87544–1480, postmarked or delivered within 120 Days after the date that appears on the Authorized Official's Determination. The Claimant will submit along with the notice of appeal a statement explaining why the Authorized Official's Determination was incorrect.

(b) *Acknowledgement of appeal.* OCGFC will acknowledge the receipt of appeals that are timely filed. Following the receipt of a timely filed appeal, the Director of OCGFC will obtain the Administrative Record from the Authorized Official and transmit a copy to the Claimant.

(c) *Supplemental filings.* The Claimant may supplement the statement of reasons and provide any additional documentary evidence supporting the appeal within 60 Days after the date when the appeal is filed. The Director of OCGFC may extend these timeframes or authorize additional filings either on his or her own initiative or in response to a request by the Claimant for good cause shown.

(d) *Admissible evidence.* The Claimant may rely upon any relevant evidence to support the appeal, regardless of whether the evidence was previously submitted to the Claims Reviewer for consideration by the Authorized Official.

(e) *Obtaining evidence.* The Director of OCGFC may request from the Claimant or from the Authorized Official any additional information that is relevant to the issues posed by the appeal in his or her discretion.

(f) *Conferences.* The Director of OCGFC may schedule a conference to gain a better understanding of the issues or to explore settlement possibilities.

(g) *Hearings.* The Director of OCGFC may exercise the discretion to convene an informal hearing to receive oral testimony from witnesses or experts. The rules under which hearings will be conducted will be established by the Director of OCGFC. Formal rules of evidence applicable to court proceedings will not be used in hearings under this subsection. Hearings will be transcribed and the transcript will be entered in the Administrative Record.

(h) *Decision on appeal.* After the allotted time for submission of evidence has passed, the Director of OCGFC will close the Administrative Record and render a written decision on the Administrative Appeal. The Director of OCGFC's decision on the Administrative Appeal will constitute the final decision of the Director of FEMA under §§ 104(d)(2)(B) and 104(i)(1) of the CGFAA.

(i) *Claimant's options following appeal.* The Claimant's concurrence with the decision in the Administrative Appeal will be conclusively presumed unless the Claimant initiates arbitration in accordance with § 295.42 or seeks judicial review in accordance with § 295.43. If the Claimant concurs with the Director's determination, payment of any additional damages awarded by the Director will be made to the Claimant upon receipt of a properly executed Release and Certification Form.

§ 295.42 Arbitration.

(a) *Initiating arbitration.* A Claimant who is dissatisfied with the outcome of the Administrative Appeal may initiate binding arbitration by submitting a written request for arbitration to the Arbitration Administrator for Cerro Grande Claims, Alternate Dispute Resolution Office, Federal Emergency Management Agency, 500 C Street, SW., room 214, Washington, DC 20472 on a form provided by OCGFC. The written request for arbitration must be received not later than 60 days after the date that appears on the Administrative Appeal decision.

(b) *Permissible claims.* A Claimant may not arbitrate an issue unless it was raised and decided in the Administrative Appeal. Arbitration will be conducted on the evidence in the Administrative Record. Evidence not previously entered into the Administrative Record will not be considered.

(c) *Settlement and mediation alternatives.* At any time after a request for arbitration is filed and before the time a decision is rendered, either party may request in writing that the

Alternate Dispute Resolution Office stay further proceedings in the arbitration to facilitate settlement discussions. A mediator may be appointed (if requested by the parties) to facilitate settlement discussions. If both parties concur in the request, the Alternate Dispute Resolution Office will stay the arbitration and appoint a mediator at our expense. The stay may be terminated and the arbitration resumed upon written request of either party to the Alternate Dispute Resolution Office. If the dispute is settled, the Alternate Dispute Resolution Office will issue an order terminating the arbitration and provide the Claimant with a Release and Certification Form.

(d) *Selection of arbitrator.* Arbitrators will be selected from a list of qualified arbitrators who have agreed to serve provided by the Alternate Dispute Resolution Office. If the amount in dispute is $300,000 or less, the arbitration will be decided by one arbitrator selected by the Claimant from the list. If the amount in dispute exceeds $300,000, a panel of three arbitrators selected at random by the Alternate Dispute Resolution Office will decide the arbitration.

(e) *Conduct of arbitration.* The arbitration will be conducted in a manner determined by the arbitrator consistent with guidelines established by the Alternate Dispute Resolution Office. The Alternate Dispute Resolution Office will provide these guidelines upon request.

(f) *Hearings.* The arbitrator may convene a hearing at a location designated by the Alternate Dispute Resolution Office. Whenever possible hearings will be held in Los Alamos, New Mexico unless the parties jointly agree to a different location.

(g) *Decision.* After reviewing the evidence, the arbitrator(s) will render a decision in writing to the Alternate Dispute Resolution Office. The Alternate Dispute Resolution Office will transmit the decision to the Claimant and the Director of OCGFC. If a panel of three arbitrators conducts the arbitration, at least two of the three arbitrators must sign the decision. The decision will be rendered no later than 10 Days after a hearing is concluded or 60 Days after the arbitration is initiated, whichever is earlier. The Alternate Dispute Resolution Office may extend the time for a decision. The decision will establish the compensation due to the Claimant, if any, and the reasons therefore.

(h) *Action on arbitration decision.* The Alternate Dispute Resolution Office will forward the arbitration decision and a Release and Certification Form to the Claimant. A Claimant who has received or who has been awarded any compensation under the CGFAA must sign and return the Release and Certification Form, regardless of whether any additional compensation is awarded by the arbitration. Additional compensation awarded in the arbitration will be paid to the Claimant after the signed Release and Certification Form is received.

(i) *Final decision.* The decision of the arbitrator will be final and binding on all parties and will not be subject to any administrative or judicial review. The arbitrator may correct clerical, typographical or computational errors as requested by the Alternate Dispute Resolution Office.

(j) *Administration of arbitration.* The Alternate Dispute Resolution Office will serve as arbitration administrator and will conclusively resolve any procedural disputes arising in the course of the arbitration. The Alternate Dispute Resolution Office will pay the fees of the arbitrator and reimburse the arbitrator for arbitration related expenses unless the parties jointly agree otherwise.

§ 295.43 Judicial review.

As an alternative to arbitration, a Claimant dissatisfied with the outcome of an Administrative Appeal may seek judicial review of the decision by bringing a civil lawsuit against FEMA in the United States District Court for the District of New Mexico. This lawsuit must be brought within 60 Days of the date that appears on the Administrative Appeal decision. The court may only consider evidence in the Administrative Record. The court will uphold our decision if it is supported by substantial evidence on the record considered as a whole. If the judge has awarded damages over and above those previously paid, FEMA will cause the damages to be paid to the Claimant upon receipt of the Release and Certification Form or as otherwise specified by order of the court. Claimants who have received any compensation under the CGFAA must return a Release and Certification Form as provided in § 295.30(c), regardless of whether the court awards additional compensation.

Subpart F—Glossary

§ 295.50 Definitions

Administrative Appeal means an appeal of the Authorized Official's Determination to the Director of OCGFC in accordance with the provisions of Subpart E of these regulations.

Administrative Record means all information submitted by the Claimant and all information collected by FEMA concerning the claim, which is used to evaluate the claim and to formulate the Authorized Official's Determination. It also means all information that is submitted by the Claimant or FEMA in an Administrative Appeal and the decision of the Administrative Appeal. It excludes the opinions, memoranda and work papers of our attorneys and drafts of documents prepared by OCGFC personnel and contractors.

Alternate Dispute Resolution Office means the Office established by FEMA to promote use of Alternative Dispute Resolution as a means of resolving disputes. The address of the Alternate Dispute Resolution Office is Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Authorized Official means an employee of the United States who is delegated with authority by the Director of OCGFC to render binding determinations on claims and to determine compensation due to Claimants under the CGFAA.

Authorized Official's Determination means a report signed by an Authorized Official and mailed to the Claimant evaluating each element of the claim as stated in the Proof of Loss and determining the compensation, if any, due to the Claimant.

Claimant means a person who has filed a Notice of Loss under the CGFAA.

Claims Reviewer means an employee of the United States or an OCGFC contractor or subcontractor who is authorized by the Director of OCGFC to review and evaluate claims submitted under the CGFAA.

Days means calendar days, including weekends and holidays.

Destruction of a Home means destruction or physical damage to a residence or the land upon which it sat, resulting from the Cerro Grande Fire.

Discount to Net Present Value means a reduction of an award for damages arising in the future by making allowance for the fact that such award, if properly invested would earn interest.

Household means a group of people, related or unrelated, who live together on a continuous basis and does not include members of an extended family who do not regularly and continuously cohabit.

Household Including Tribal Members means a Household that existed on May 4, 2000, which included one or more Tribal Members as continuous residents.

Indian tribe means an entity listed on the most recent list of federally recognized tribes published in the **Federal Register** by the Secretary of the

Interior pursuant to the Federally Recognized Indian Tribe List Act, 25 U.S.C. 479a, or successor legislation.

Injured Person means an individual, regardless of citizenship or alien status, an Indian tribe, corporation, tribal corporation, partnership, company, association, cooperative, joint venture, limited liability company, estate, trust, county, city, State, school district, special district or other non-Federal entity that suffered Loss resulting from the Cerro Grande Fire and any entity that provided insurance to an Injured Person. The term Injured Person includes an Indian tribe with respect to any claim relating to property or natural resources held in trust for the Indian tribe by the United States. Lenders holding mortgages or security interests on property affected by the Cerro Grande fire and lien holders are not "Injured Persons" for purposes of the CGFAA.

Loss means "injury or loss of property, or personal injury or death," as that phrase appears in the Federal Tort Claims Act, 28 U.S.C. 1346(b)(1), and the several categories of "property loss," "business loss" or "financial loss" set out in the § 104(d) of the CGFAA.

Mitigation Compensation Plan means a written mitigation plan submitted by a local government with land use regulatory authority or by an Indian tribe that recommends specific mitigation measures to reduce the heightened risks of wildfire, flood or other natural hazards resulting from the Cerro Grande Fire or seeks compensation for the cost of such measures expended before August 28, 2000, or both. The Mitigation Compensation Plan may address property specific mitigation measures and community level mitigation measures.

Notice of Loss means a form supplied by OCGFC through which an Injured Person makes a binding, conclusive and irrevocable election to have all Losses resulting from the Cerro Grande Fire reviewed by FEMA for possible compensation under the CGFAA.

Proof of Loss means a statement, signed by a Claimant under penalty of perjury and subject to the provisions of 18 U.S.C.1001 that the claim is true and correct, attesting to the nature and extent of the Claimant's injuries.

Public Assistance Program means the FEMA program establish under Subchapter IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121, *et seq.*, which provides grants to States, local governments, Indian tribes and private nonprofit organizations for emergency measures and repair, restoration and replacement of damaged facilities.

Replacement Cost means the cost of replacing an item that is damaged or destroyed with an item that is comparable in quality and utility.

Release and Certification Form means a document in the manner prescribed by § 104(e) of the CGFAA that all Claimants who have received or are awarded compensatory damages under the CGFAA must execute and return to OCGFC as required by § 295.30(c).

Subsistence Resources means food and other items obtained through hunting, fishing, firewood and other resource gathering, timbering, grazing or agricultural activities undertaken by the Claimant without financial remuneration.

Tribal Member means an enrolled member of an Indian Tribe.

Dated: March 15, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–6917 Filed 3–20–01; 8:45 am]

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Federal Register

Wednesday,
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Part III

Federal Emergency Management Agency

44 CFR Part 152
Assistance to Firefighters Grant Program; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 152

RIN 3067–AD21

Assistance to Firefighters Grant Program

AGENCY: U.S. Fire Administration (USFA), Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule with request for comments.

SUMMARY: We, FEMA, are publishing this interim final rule to provide guidance on a new program to make grants directly to fire departments of a State or tribal nation for the purpose of enhancing their ability to protect the health and safety of the public as well as that of firefighting personnel facing fire and fire-related hazard. The grants will be awarded on a competitive basis based on demonstrated financial need for, and maximum benefit to be derived from, the grant funds.

DATES: This interim final rule is effective March 21, 2001. We invite comments on this interim final rule, which should be received by May 21, 2001.

ADDRESSES: Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Room 840, 500 "C" Street, SW, Washington, DC 20472. Comments may also be transmitted via fax to (202) 646–4536 or email to *rules@fema.gov*.

FOR FURTHER INFORMATION CONTACT: Brian Cowan, Director, Office of Strategic Initiatives, Federal Emergency Management Agency, Room 304, 500 "C" Street, SW, Washington, DC 20472, or call 1–866–274–0960, or e-mail *USFAGRANTS@fema.gov*.

SUPPLEMENTARY INFORMATION:

This interim final rule provides guidance on the administration of grants made under the Federal Fire Protection and Control Act, 15 U.S.C., Section 2201 *et seq.*, as amended by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398. In fiscal year 2001, Congress appropriated $100,000,000 to carry out the activities of the Assistance to Firefighter Grant Program. Congress included in the legislation a list of fourteen categories under which grantees could spend the grant funds. Because of the limited amount of time to establish this new program, we have elected to limit the number of eligible categories to six for this fiscal year. We believe that the six selected categories will provide the grant program with the greatest degree of benefit for the program dollars spent. The six categories selected for funding under this grant program are listed below. The projected allocation for each category is also provided.

(a) Training $6,500,000
(b) Fitness Program $6,500,000
(c) Vehicles $15,000,000
(d) Firefighting Equipment $15,000,000
(e) Personal Protective Equipment $35,000,000
(f) Fire Prevention Programs $12,000,000

Applicants seeking funding from this grant program will be allowed to apply for assistance in only two of the categories listed above. We will evaluate each application for assistance independently based on established eligibility criteria, the financial needs of the applicant, and an analysis of the benefits that would result from the grant award.

For the purposes of this program, State is defined as the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. We will provide the chief executives of the States with information concerning the total number and dollar amount of awards made to fire departments in their States.

In fiscal year 2001, at least $5,000,000 of the funds available under this new program are available for us to make grants to, or enter into contracts or cooperative agreements with, national, State, local or community organizations, including fire departments, for the purpose of carrying out fire prevention programs.

Eligible applicants for the Assistance to Firefighters grant program are limited to fire departments located in the fifty United States, tribal nations, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands. A fire department is defined as an agency that provides public fire prevention and control to local, municipal, district, county, parish, or tribal governments based on a formally recognized arrangement. An emergency medical services unit can apply for assistance provided the unit falls organizationally under the auspices of a fire department. Fire departments, which are Federal or contracted by the Federal government and whose sole responsibility is suppression of fires on Federal installations, are not eligible for this grant program. Tribal fire departments that receive Federal funds to perform fire protective services and/or to purchase or install fire protective equipment are not eligible for this grant program.

The law requires us to reserve a share of the grant funds for volunteer departments. Specifically, we must ensure that fire departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and career firefighting personnel receive a portion of the total grant funding that is not less than the proportion of the United States population that those departments protect. According to a 1999 survey by the National Fire Protection Association, volunteer and combination departments protect 57 percent of the population of the United States and career departments protect 43 percent of the population. Therefore, the target distribution of funds is 43 percent for career departments and 57 percent for volunteer/combination departments.

Concurrent with publication of this interim final rule, we are seeking emergency approval of the Paperwork Reduction Act requirements in order to collect supplemental information from each applicant. We will use the supplemental information included in grant application packages in the evaluation of the merits of each request for funding.

For this year's (fiscal year 2001) grant program, we will issue the Request for Application (RFA) packages on or about April 2, 2001. Complete application packages must be received by us on or before the close of business on May 2, 2001.

Eligible applicants can obtain the application form from the FEMA/USFA website (*www.usfa.fema.gov*). If an eligible applicant does not have access over the Internet to the FEMA/USFA websites, they may contact us directly to request a copy via mail. Those interested in receiving an application in the mail can (1) submit their request to USFA Grant Program Technical Assistance Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727–8998, or (2) phone 866–274–0960, or (3) fax the request to 866–274–0942, or (4) e-mail *USFAGRANTS@fema.gov*. Applicants should complete and submit their applications (original application plus two copies of the original) to us at USFA Grant Program Technical Assistance Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727–8998.

Administrative Procedure Act Determination

We are publishing this interim final rule without opportunity for prior public comment under the Administrative Procedure Act (APA), 5 U.S.C. 553. In accordance with 5 U.S.C. 553(d)(3), we find that there is good cause for the interim final rule to take effect immediately upon publication in the **Federal Register** in order to comply with Public Law 106–398 which requires us to award the grants no later than September 30, 2001. We invite comments from the public on this interim final rule. Please send comments to FEMA in writing on or before May 21, 2001. After we have reviewed and evaluated the comments we will publish a final rule as required by the APA.

National Environmental Policy Act

This rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(i), (ii), (iii), (v), and (vi).

Executive Order 12898, Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 FR 7629, February 16, 1994, we have undertaken to incorporate environmental justice into our policies and programs. The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin. No action that we can anticipate under this interim final rule will have a disproportionately high and adverse human health and environmental effect on any segment of the population. In addition, the interim final rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of the Executive Order do not apply to this interim final rule.

Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have determined that this rule is a "significant regulatory action" under the terms of Executive Order 12866. The rule sets out our administrative procedures for making grants available for fire departments to protect the health and safety of the public and the firefighting personnel against fire and fire-related hazards. We expect to award approximately $90,000,000 in grants under this program. With cost sharing, we expect the total value of all grants to be in the $110,000,000 to $115,000,000 range. Therefore, we conclude this rule is a major rule as defined in 5 U.S.C. 804(2).

The Office of Management and Budget has reviewed the interim final rule under Executive Order 12866.

Paperwork Reduction Act

Concurrent with the publication of this interim final rule, we are submitting a request for review and approval of a new collection of information, which is contained in this interim final rule. The request is submitted under the emergency processing procedures in Office of Management and Budget (OMB) regulations 5 CFR 1320.13. We are requesting that this information collection be approved by *March 20, 2001*, for use through September 2001.

We expect to follow this emergency request with a request to approve the use of the collection instrument for a term of three years. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and normal clearance submissions to OMB, we invite the general public to comment on the proposed collection of information. This notice and request for comments complies with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). It also seeks comments concerning the collection of supplementary information from the applicant fire departments necessary to evaluate grant applications and make awards. The supplementary information augments the screening and referral forms used by the grants administration program in determining whether applicants meet basic eligibility requirements.

Collection of Information.

Title: Assistance to Firefighter Grant Program " Grant Application Supplemental Information.

Type of Information Collection: New.

Abstract: The supplemental information will correspond to the preliminary evaluation criteria. The information will be submitted by grant applicants who apply for funding in six categories under the Assistance to Firefighters grant program newly authorized by Congress in fiscal year 2001. The grant categories are: training programs, wellness and fitness programs, acquisition of firefighting vehicles, acquisition of firefighting equipment, acquisition of personal protective equipment, and fire prevention programs (see section 152.1 of the interim final rule). Applicants may apply for funding in no more than two of the categories. FEMA will evaluate the grant applications to ensure that funds are distributed to volunteer and career departments consistent with the mandates of Congress. Additionally, we seek to distribute funds to urban, suburban, and rural fire departments. The supplemental information that FEMA is proposing to request is as follows:

(1) *General questions asked of all applicants*

(a) Is your active firefighting staff: (i) paid/career firefighters; (ii) volunteer firefighters; or (iii) a combination of the two?

(b) How many active firefighters are in your department?

(c) Is your department located in an urban, suburban or rural setting?

(d) What is the approximate population of your first due response area?

(e) Do you receive Federal funding to perform fire protective services and/or to purchase or install fire protective equipment.

(f) Do you currently report to the national fire incident reporting system (NFIRS)?

(2) *Questions for vehicle category*

(a) What type of vehicle will you use the grant money to purchase?

(b) How many front line vehicles does your department own?

(c) Is the purpose of your purchase to replace an old vehicle, refurbish an old

vehicle, or purchase a new or used vehicle to fulfill a new mission?

(d) How many vehicles, of the type or class you are purchasing, does your department own?

(e) What is the age of your newest primary-response vehicle in this class that you currently own?

(f) What is the age of the oldest primary-response vehicle in this class that you currently own?

(g) What is the mileage or number of engine hours on the primary-response vehicle that you are replacing/refurbishing?

(h) What is the average number of annual responses for the primary-response vehicle you are replacing/refurbishing?

(3) *Questions for the personal protective equipment category*

(a) What percentage of your active firefighting staff has personal protective equipment that meets current NFPA and OSHA standards?

(b) What percentage of your active firefighting staff will have personal protective equipment that meets current NFPA and OSHA standards if this grant is awarded?

(c) Are you seeking this grant to: (i) Equip your firefighting staff for the first time; (ii) replace obsolete or sub-standard equipment; or (iii) equip your staff for a new mission?

(4) *Questions for training category*

(a) Is the training planned under this grant direct-delivery training or off-site training?

(b) What is the percentage of personnel in the targeted cadre that this program will train?

(c) This training: (i) Will fulfill a statutory requirement; (ii) will achieve voluntary compliance with a national standard; or (iii) does not have a statutory basis or trade standard.

(d) Is this training you are seeking: (i) Basic training for firefighters; (ii) officer training (either supervisory or safety officer); (iii) specialized training; or (iv) other?

(5) *Questions for firefighting equipment category*

(a) The equipment purchase under this grant program: (i) Is necessary for basic firefighting capabilities, but has never been owned by the department; (ii) will replace old, obsolete, or substandard equipment owned by the department; or (iii) will expand the capabilities of the department into a new mission area.

(b) The equipment purchased under this grant program: (i) Will bring the department into statutory compliance; (ii) will bring the department into voluntary compliance with a national standard; or (iii) has no statutory basis or trade standard.

(c) Will the equipment purchase under this grant program benefit the health and safety of the firefighters and/or the community?

(6) *Questions for the fire prevention program category*

(a) In what areas do you plan on using these fire prevention grant funds: public education programs; purchase and installation of residential/public detection and suppression systems; development/enforcement of codes; public information materials; presentation aids and equipment; or other?

(b) Does your department currently have a fire prevention program/plan?

(c) Will the grant: (i) Establish a new program; (ii) expand an existing program into new areas; or (iii) augment an existing fire prevention program?

(d) Will this program establish a multi-organizational partnership with other groups in your community?

(e) Who is your target audience: (i) USFA-identified target (children under the age of fourteen, seniors over sixty-five years of age and firefighters), or (ii) other high-risk population?

(f) Is the content of your program accurate and consistent with generally accepted practices and principles?

(g) Will this program be sustained beyond the grant period?

(h) Will your department periodically evaluate the program's impact on the community?

(7) *Questions for the wellness and fitness program*

(a) Do you have a wellness/fitness program at your department?

(b) Do you currently offer, or will this grant program provide, entry physical examinations and a job-related immunization program?

(c) What does your existing wellness/fitness program currently offer and what will your program offer during the grant year (i.e., entry physical examination, job related immunization program, health screening program, annual physical examination, formal fitness and injury prevention program, crisis management program, employee assistance program, incident rehabilitation program, injury/illness rehabilitation, or other)?

(d) Will participation in the well/fitness program be mandatory?

(e) Do you, or will you, offer incentives to participate in the program?

Project Narrative: The narrative statement identifies the proposed measure to be funded, provides information supporting the project's eligibility, and states its benefits for the purposes of competitive rating. The narrative will contain a description of the proposed projects, a statement that demonstrates the financial need of the fire department and a statement that details the benefits to be derived from the expenditure of grant funding. Applicants that need assistance in formulating the cost-benefit statement or any other justification required by this program may contact us for technical assistance. We will also place information and technical assistance onto the FEMA/USFA websites. Our Technical Assistance Center's toll free number is 866–274–0960, our email address is *USFAGRANTS@fema.gov,* and our website addresses are *www.fema.gov* and *www.usfa.fema.gov.*

Forms or Formats: Forms or formats for the above fire grant program categories may be developed and made available to grant applicants. The forms or formats will capture and format only the questions shown above. No other information requirements will be added to any forms or formats developed by FEMA. FEMA's grant administration forms are approved under OMB number 3067–0206, which expires February 29, 2004. The forms are SF 424, Request for Federal Assistance, facesheet; FEMA Form 20–20, Budget—Non Construction; Project Narrative; Cost Benefit Narrative; FEMA Form 20–16, Summary of Assurances; SF–LLL, Lobbying Disclosure; Automated SF 270; and Performance Report.

Estimated Annual Burden Hours:

PROPOSED NEW COLLECTION—ASSISTANCE TO FIREFIGHTER GRANT PROGRAM—GRANT APPLICATION SUPPLEMENTAL INFORMATION

Grant category data collections	Number of respondents	Hours per response	Range of annual burden hours
• Vehicles	1,500 to 3,500	0.5	750 to 1,750
• Personal Protective Equipment	1,000 to 2,250	0.5	500 to 1,125

PROPOSED NEW COLLECTION—ASSISTANCE TO FIREFIGHTER GRANT PROGRAM—GRANT APPLICATION SUPPLEMENTAL INFORMATION--Continued

Grant category data collections	Number of respondents	Hours per response	Range of annual burden hours
• Training	750 to 1,750	0.5	375 to 875
• Firefighting Equipment	750 to 2,000	0.5	375 to 1,000
• Fire Prevention Programs	500 to 1,250	0.5	250 to 625
• Fitness	500 to 1,250	0.5	250 to 625
Total Burden Hours	5,000 to 12,000	0.5	2,500 to 6,000

FEMA GRANTS ADMINISTRATION FORMS—OMB NUMBER 3067–0206, WHICH EXPIRES FEBRUARY 29, 2004

Type of forms or collection	Number of respondents	Hours per response	Range of annual burden hours
SF–424 Application Facesheet	5,000 to 6,000	0.5	2,500 to 3,000
20–20 Budget Non-Construction	5,000 to 12,000	1.0	5,000 to 12,000
Project Narrative	5,000 to 12,000	0.5	2,500 to 6,000
Cost Benefit Narrative	5,000 to 12,000	0.5	2,500 to 6,000
20–16 Summary of Assurances	5,000 to 6,000	1.0	5,000 to 6,000
SF–LLL Lobbying Disclosure	5,000 to 6,000	0.5	2,500 to 3,000
Automated SF–270	2,000 to 4,000	0.5	1,000 to 2,000
Performance Report	1,500 to 2,000	1.5	2,250 to 3,000
Total Burden Hours			23,250 to 41,000

We anticipate 5,000 to 6,000 fire departments will apply for assistance under this grant program in this first year of the program. Each applicant will be allowed to apply for two different funding categories out of the six categories available for funding this year (i.e., training programs, wellness and fitness programs, firefighting vehicles, firefighting equipment, personal protective equipment, and fire prevention programs). Out of the 5,000 to 6,000 applicants, we anticipate awarding 1,500 to 2,000 grants. *Cost to the Respondents:* Cost estimates for the application phase ranges from $375,000 to $615,000 ($15 per hour times 25,000 and 41,000 hours, respectively). Cost estimates for reporting on the disposition of the grant funds range from $48,750 to $75,000 ($15 per hour times 3,250 and 5,000 (the number of grant awards), respectively).

As a condition of receiving funding under this program, grant recipients must agree to provide information to the national fire incident reporting system (NFIRS) for the grant period. This reporting constitutes an additional burden on the grantees in this program. We estimate that grantees will spend between one-quarter hour and one-half hour per incident fulfilling this requirement. The annual burden will, therefore, vary from grantee to grantee depending on the number of incidents to which the grantees responded.

Comments:

Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) obtain recommendations to enhance the quality, utility, and clarity of the information to be collected; and (d) evaluate the extent to which automated, electronic, mechanical, or other technological collection techniques may further reduce the respondents' burden. OMB should receive comments within 30 days of the date of this notice. FEMA will continue to accept comments through May 21, 2001.

Addressee: Interested persons should submit written comments to the Desk Officer for the Federal Emergency Management Agency, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 within 30 days of this notice. FEMA will continue to accept comments for an additional 30 days. Those written comments on the collection of information, including the burden estimate, should be sent to the Muriel B. Anderson, Chief, Records Management Branch, Program Services Division, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

For Further Information Contact: You may obtain copies of the OMB paperwork clearance package by contacting Ms. Anderson at (202) 646–2625 (voice), (202) 646–3524 (facsimile), or by e-mail at *muriel.anderson@fema.gov.*

Executive Order 13132, Federalism

This Executive Order sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this interim final rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that the rule does not have federalism implications as defined by the Executive Order. The rule sets out our administrative procedures for making grants available for fire departments to enhance their ability to protect the health and safety of the

public and that of their firefighting personnel facing fire and fire-related hazards. The rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion.

The Office of Management and Budget has reviewed the interim final rule under Executive Order 13132.

Congressional Review of Agency Rulemaking

We have sent this interim final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801–808. The rule is a "major rule" within the meaning of that Act. It will result in an annual effect on the economy of $100,000,000 or more. The rule sets out our administrative procedures for making grants available for fire departments to enhance their ability to protect the health and safety of the public and that of their firefighting personnel facing fire and fire-related hazards. We expect to award approximately $90,000,000 in grants under this program. With cost sharing, we expect the total value of all grants to be in the $110,000,000 to $115,000,000 range. However, we do not expect that it will result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor do we expect that it will have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

In compliance with section 808(2) of the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 808(2), for good cause we find that notice and public procedure on this final rule are impracticable, unnecessary, or contrary to the public interest due to the requirements of Public L. 106–398 which requires us to award the grants no later than September 30, 2001. In order to comply with this statutory mandate we need to accept applications for grants no later than May 2001. We invite comments from the public on this interim final rule. Accordingly, this final rule is effective on March 21, 2001.

This final rule is subject to the information collection requirements of the Paperwork Reduction Act. We are seeking emergency approval from the Office of Management and Budget. We will provide the OMB Control number with the application packages. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and any enforceable duties that we impose are a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 152

Assistance to Firefighters Grant Program.

Accordingly, we amend 44 CFR Chapter I by adding Part 152 to read as follows:

PART 152—ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

Sec.

Authority: Federal Fire Protection and Control Act, 15 U.S.C., Section 2201 *et seq.*, as amended by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398.

§ 152.1 Purpose.

This competitive grant program will provide funding directly to fire departments for the purposes described in the six eligible grant categories below. The funds cannot be used to pay for products and services contracted for, or purchased prior to the effective date of the grant. The six eligible categories for a fire department's expenditures of grant funds under this program follow below:

(a) Training firefighting personnel in fire-fighting, emergency response, supervision and safety, arson prevention and detection, handling of hazardous materials, or training firefighting personnel to provide training in any of these areas. Eligible uses of training funds include but are not limited to purchase of training curricula, training equipment and props, training services, attendance at formal training forums, etc.

(b) Establishing and/or equipping wellness and fitness programs for firefighting personnel, including the procurement of medical services to ensure that the firefighting personnel are physically able to carry out their duties (purchase of medical equipment is not eligible under this category),

(c) Acquiring additional firefighting vehicles, including fire apparatus,

(d) Acquiring additional firefighting equipment, including equipment for individual communications and monitoring (integrated communications systems are not eligible),

(e) Acquiring personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel, and

(f) Funding fire prevention programs.

§ 152.2 Definitions.

Fire department means an agency that provides public fire prevention and control to local, municipal, district, county, parish, or tribal governments based on a formally recognized arrangement. An emergency medical services unit can apply for assistance provided the unit falls organizationally under the auspices of a fire department. Fire departments, which are Federal or contracted by the Federal government and whose sole responsibility is suppression of fires on Federal installations, are not eligible for this grant program. Tribal fire departments that receive Federal funds to perform fire protective services and/or to purchase or install fire protective equipment are not eligible for this grant program.

Population means permanent residents in the primary/first response area or jurisdiction served by the applicant according to U.S. Census figures available at the time of the application deadline.

State means any of the fifty United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

§ 152.3 Availability of funds.

(a) No applicant under this program can receive more than $750,000 in Federal grant funds under this program in any fiscal year regardless of the number of categories funded.

(b) As a condition of receiving a grant under this program, fire departments in areas serving populations over 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to 30 percent of the total project cost. Fire departments serving areas with a population of 50,000 or less will have to match the Federal grant funds with an amount of non-Federal funds equal to 10 percent of the total project cost.

§ 152.4 Roles and responsibilities.

(a) Recipient (Grantee) must agree to:

(1) Maintain operating expenditures in the funded grant category at a level

equal to or greater than the average of their operating expenditures in the two fiscal years preceding the fiscal year in which assistance is awarded.

(2) Retain grant files and supporting documentation for three years after the conclusion of the grant.

(3) Make their grant files, books and records available for an audit to ensure compliance with any requirement of the grant program.

(4) Provide information to the U.S. Fire Administration's national fire incident reporting system (NFIRS) for the period covered by the assistance.

(b) FEMA Activities:

(1) We will ensure that the funds are awarded based on the priorities and expected benefits articulated in the statute, this rule, and USFA's strategic plan.

(2) We will ensure that not less than five percent (5%) of the funds are made available to national, State, local, or community organizations, including fire departments, for the purpose of carrying out fire prevention programs.

(3) We will ensure that grants are made to fire departments located in urban, suburban, and rural communities.

(4) We will ensure that fire departments with volunteer staff, or staff comprised of a combination of career fire fighters and volunteers, receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

§ 152.5 Evaluation criteria.

(a) We will use the narratives/supplemental information provided by the applicants in their grant applications to evaluate on a competitive basis the merits and benefits of each request for funding. Applicants must articulate the benefits that will be achieved through the grant activities. In addition, the applicant will demonstrate financial need for the assistance requested. We will review and evaluate the applications according to rating criteria that focus on the benefits to be obtained from the use of these grant funds. Our evaluation will also include an assessment of financial need. We seek to maximize the benefits derived from the funding by crediting applicants with the greatest financial need and whose proposed activities provide the greatest benefit.

(b) Applicants will complete two narrative sections in the application package. The first section invites a short description of the planned uses for the grant funds. This narrative should explain why the grant funds are needed and why the department has not been able to fund the planned activities on its own. In the second narrative, the applicant will state the amount requested and detail the benefits the department or community will realize as a result of the grant award. Applicants may seek assistance in formulating their cost-benefit statement or any other justification required by the application by contacting our Grant Program Technical Assistance Center at 866–274–0960 or by email at *USFAGRANTS@fema.gov*. We will also place useful information on the FEMA/USFA websites.

(c) In addition to the project narrative, the applicant must provide an itemized budget detailing the use of the grant funds. If an applicant is seeking funds in more than one category (eligible applicants may apply for up to two categories), the applicant must provide a narrative and an itemized budget for each category. The budget should be entered onto the form (FEMA Form 20–20) provided in the application package.

(d) Specific rating criteria for each of the eligible categories follow below. These rating criteria, in conjunction with the preliminary evaluation criteria, will provide an understanding of the cost effectiveness of the proposed projects.

(1) *Training.* We believe that more benefit is derived from the direct delivery of training than from the purchase of training materials and equipment. Therefore, applications focused on direct delivery of training will receive a higher competitive rating. We also believe that funding of basic firefighting training (*i.e.*, training in basic firefighting duties or operating fire apparatus) has greater cost benefit than funding of officer training and specialized training. We will also accord higher rating to programs achieving benefits from statutorily required training over non-mandatory or strictly voluntary training. Finally, we will rate more highly those programs that benefit the highest percentage of targeted personnel within a fire department.

(2) *Wellness and fitness programs.* We believe that in order to have an effective wellness/fitness program, fire departments must offer both an entry physical examination and an immunization program. Accordingly, applicants in this category must currently offer both benefits, or must propose to initiate both a physical examination and an immunization program with these grant funds in order to receive additional funding for these purposes. We believe the greatest benefit will be realized by supporting new wellness and fitness programs, and therefore, we will accord higher competitive ratings to those applicants lacking wellness/fitness programs over those applicants that already possess a wellness/fitness program. Finally, since participation is critical to achieving any benefits from a wellness or fitness program, we will give higher competitive rating to departments whose wellness and fitness programs mandate participation as well as programs that provide incentives for participation.

(3) *Firefighting vehicles.* We believe that more benefit will be realized by funding fire departments that own few or no firefighting apparatus than by providing funding to a department with numerous vehicles. Therefore, we will give a higher competitive rating in the apparatus category to fire departments that own few or no firefighting vehicles. We will also give higher competitive rating to departments that have not recently purchased a new firefighting vehicle, and departments that wish to replace an old, high-mileage vehicle or a vehicle that has sustained a high number of responses. We do not believe that there is sufficient cost benefit from expenditures for vehicles with ladder or aerial apparatus and will not accord positive competitive standing to applications proposing such purchases.

(4) *Firefighting equipment.* We believe that this grant program will achieve the greatest benefits if we provide funds to fire departments purchasing basic firefighting equipment (never owned prior to grant) to bring their departments up to the applicable minimum (*i.e.*, as required by statute, regulation, or professional firefighting guidance), rather than to the department that is replacing equipment or enhancing capabilities. Because of the obvious benefits, we will also give higher competitive rating to departments that are mainly purchasing equipment designed to protect the safety of the firefighters.

(5) *Personal protective equipment.* One of the stated purposes of this grant program is to protect the health and safety of firefighters. In order to achieve this goal and maximize the benefit to the firefighting community, we believe that we must fund those applicants needing to provide personal protective equipment (PPE) to a high percentage of their personnel. Accordingly, we will give a high competitive rating in this category to fire departments in which a large percentage of their active firefighting staff do not have any personal protective equipment and to departments that wish to purchase enough PPE to equip 100 percent of their active firefighting staff. We will

also give a higher competitive rating to departments that are purchasing the equipment for the first time as opposed to departments replacing obsolete or substandard equipment (*e.g.*, equipment that does not meet current NFPA and OSHA standards), or purchasing equipment for a new mission.

(6) *Fire prevention programs.* We believe that the public as a whole will receive greatest benefit from funds targeted for fire departments that do not have an existing fire prevention program. Also, we believe the public will benefit greatly from continuing fire prevention programs as opposed to limited efforts. Therefore, we will give a higher competitive rating to programs that will be self-sustaining after the grant period. Because of the benefits to be attained, we will give a higher competitive rating to programs that target one or more of USFA's identified high-risk populations (*i.e.*, children under fourteen years of age, seniors over sixty-five and firefighters), and programs whose impact is/will be periodically evaluated. We believe public education programs and community-based, participatory programs that purchase and install residential and public detection and suppression systems achieve greater benefits than do programs that develop and enforce codes and standards. Public information materials and presentation aids and equipment achieve the least benefit, therefore, these types of activities will be accorded the lowest competitive rating.

§ 152.6 Application review and award process.

Using the evaluation criteria delineated above, a panel of subject matter experts will review each application to determine which applicants satisfy the grant program's eligibility parameters, the applicant's relative standing under the rating criteria, and the benefit to cost value of the proposed projects. We will make funding decisions based on the criteria, the demonstrated need of the applicant, and the benefits to be derived from the proposed projects. In order to fulfill our obligation under the law, we will also make funding decisions based on the type of fire department (paid, volunteer, or combination fire departments) and the size and character of the community it serves (urban, suburban, or rural).

§ 152.7 Grant payment, reporting and other requirements.

(a) Grantees have up to twelve months, from the date of the notice of award, to incur obligations to fulfill their responsibilities under this grant program. Grantees may request funds from FEMA as reimbursement for expenditures made under the grant program or for immediate cash needs per FEMA regulations (44 CFR 13.21, more commonly referred to as the Common Rule).

(b) The recipients of funding under this program must report to us on how the grant funding was used. This will be accomplished via submission of a final report. Additionally, fire departments that receive funding under this program must agree to provide information to the national fire incident reporting system (NFIRS) for the period covered by the assistance.

§ 152.8 Application submission and deadline.

Each year that this program is authorized, we will announce the grants availability via Notice of Funds Availability. That Notice will contain all pertinent information concerning the eligible funding categories, funding levels, application period, timelines, and deadlines.

Dated: March 16, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–7014 Filed 3–20–01; 8:45 am]

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Federal Register

Wednesday,
March 21, 2001

Part IV

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1480
2000 Crop Disaster Program; Final Rule

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1480

RIN 0560–AG36

2000-Crop Disaster Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (2001 Act) related to crop-loss disaster assistance for producers who suffered 2000-crop losses, and other specified crop year losses, because of adverse weather or other specified conditions.

DATES: Effective March 19, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca Davis, Chief, Compliance Branch, FSA, USDA; Telephone: (202)720–9882.

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 840 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (2001 Act) (Public Law 106–387) requires that, with respect to the programs authorized by sections 804, 811 and 815 of the 2001 Act, the regulations be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture (the Secretary) effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These provisions are thus issued as final and are effective immediately.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be Economically Significant and has been reviewed by the Office of Management and Budget. A cost-benefit assessment was completed and is summarized following the Background section.

Federal Assistance Programs

The titles and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: Crop Disaster Program (D); 10.073.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

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

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Unfunded Mandates Reform Act of 1995 (UMRA)

This rule does not impose any mandates on State, local or tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 840 of Public Law 106–387 requires that the regulations necessary to implement these provisions be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. It also requires that the Secretary use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Fairness Act (SBREFA)), which provides that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of section 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This rule is considered a major rule for the purposes of SBREFA, but Congress has expressed its desire that these regulations be issued expeditiously without protracted notice and comment, or additional delays required by section 801 of SBREFA. Inasmuch as the rule affects the incomes of a large number of agricultural producers who have been hit hard by natural disasters, and given the clear intent expressed by Congress, CCC finds that further delays are contrary to the public interest and therefore, this regulation is issued as final and is effective immediately.

Paperwork Reduction Act

Section 840 of the 2001 Act requires that the regulations implementing sections 804, 811 and 815 be promulgated without regard to the Paperwork Reduction Act. This means that the normal 60-day public comment period and OMB approval of the information collections required by this rule are not required before the regulations may be made effective.

Background

Provisions of the 2001Act authorize the Secretary to provide disaster assistance to crop producers for losses due to damaging weather and related conditions, losses due to crop disease and insects for 2000 crops, and other crops in certain limited instances. Generally, by terms of the statute, crop loss assistance is to be made available under the same or similar terms and conditions as the crop loss provisions administered for 1998 crop losses, as provided in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 1999 (Public Law 105–277). However, there are certain notable additions, exceptions and restrictions in the 2000-crop Disaster Program (2000 CDP) that were not applicable to the 1998 single-year Crop Loss Disaster Assistance Program (CLDAP).

Principally, the rules for the 2000 CDP differ from the rules for the 1998 single-year CLDAP in the following manner:

1. A section has been added to clarify which crop losses are eligible for coverage;

2. The eligible causes of loss have been expanded, as specified by Section 804 of the 2001 Act, to include losses from insect damage from grasshoppers and Mormon crickets; and losses caused

by aflatoxin, plum pox virus, Pierce's disease, watermelon sudden wilt disease; losses from Mexican fruit fly quarantines in certain California counties; all of which are not required to be weather related;

3. Eligible causes of loss for irrigated crops, both planted and prevented planted, for 2000 CDP, include lack of irrigation water from saltwater intrusion or contamination of irrigation water supply due to drought conditions;

4. Also included as an eligible cause of loss to irrigated crops is water rationing if proof is provided that water was rationed by a Government entity or a water district;

5. The crop insurance linkage requirement was modified so that crop insurance will be required on 2001 and 2002 crops that were insurable in 2000, but for which the producer did not purchase coverage, and for which the producer receives 2000 CDP payments. For the 1998 CLDAP, the producer had to obtain crop insurance on all crops of economic significance;

6. The use of special approved yields based on actual production is not allowed unless production reports were submitted prior to the enactment of the 2001 Act;

7. The 2001 Act did not include any provisions regarding FCIC premiums and discounts for insurance coverage and therefore, all such language has been removed;

8. Language has been added that authorizes FSA county committees to make adjustments to RMA data on crop production, crop acres and other information supplied to FSA for insured producers for 2000 CDP purposes if the reason for adjustment is supported by adequate documentation;

9. All references regarding the use of a national factor for the pro-ration of disaster payments have been removed since the 2000 CDP is funded by the Commodity Credit Corporation (CCC), rather than by limited appropriation, with the exception of the $38 million specifically authorized for 1999 and 2000 apple and potato quality adjustments in Section 811 of the 2001 Act, which was subsequently reduced to $37,916,400 by the Government-Wide rescission of appropriated funds required by the FY 2001 Consolidated Appropriations Bill (Public Law 106–554, section 1403);

10. Unlike the statute covering the preceding disaster programs, the 2001 Act did not specifically include trees as an eligible crop for 2000 CDP and therefore, such assistance for trees will not be available in the new program;

11. Provisions have been added to implement the portion of the 2001 Act that provides for a separate quality adjustment if the quality loss was at least 20 percent of the value of affected production of the crop would have had if the crop had not suffered a quality loss;

12. Additional provisions have been added to provide the maximum of $37.9 million in CDP benefits for quality losses specifically for 1999 and 2000 apple and potato crops due to disaster. Unlike all other benefits under the 2000 CDP, these payments are not subject to payment limitation and gross revenue provisions, but may be subject to a national pro-ration factor if the value of the requests for assistance under this part exceed the amount funded;

13. Provisions for vegetable and root stock as value loss crops were revised for clarity and to more accurately reflect the way these crops are grown and marketed;

14. The definitions of "multiple cropping," "multiple planting" and "repeat crops" were added and revised to assist in the implementation of the restriction on 2000 CDP benefits to only one crop in certain situations;

15. Language has been added to exclude the use of late-filed crop acreage reports for the purpose of developing cropping history under the provisions concerning multiple-cropping and prevented planting;

16. Definition of the "United States" has been revised to include authority for the Deputy Administrator to determine whether to extend disaster assistance to certain U.S. territories based on feasibility and disaster occurrences;

17. Definitions of "production," "rate," and "yield" have been added for clarity;

18. The Highly Erodible Land and Wetland Conservation (HELC/WC) compliance exclusion for producers of value loss crops has been removed;

19. Language has been added for the revision of the adjusted unharvested payment factors if costs associated with growing the crop are not incurred;

20. Crops ineligible for prevented planting assistance have been changed to be consistent with crop insurance determinations of crops eligible for prevented planted coverage;

21. Insured producers are now required to provide documentation proving their prevented planting eligibility; and

22. All references to the use of the Palmer Drought Index and the contiguous acreage requirement in the determination of prevented planted crop acres have been removed to be more consistent with crop insurance prevented planting requirements.

As provided in section 815(e) of the 2001 Act, assistance will be applicable to losses, due to disaster, for all crops, as determined by the Secretary. The eligible crops will also include irrigated crops that, due to lack of irrigation water or contamination by saltwater intrusion of an irrigation water supply due to drought conditions, were planted and suffered a loss or were prevented from being planted; pecans; and nursery losses in the State of Florida that occurred, because of disaster, during the period of October 1, 2000, through December 31, 2000. For these Florida nursery losses, any benefit determined and issued will be independent from other 2000 CDP payments and such compensable losses will be ineligible for assistance that may become available for 2001 crop losses.

The 2001 Act limits disaster assistance to only one 2000 crop on the same acreage unless there is an established practice of planting two or more crops on the same acreage for harvest in the same crop year as determined by the Secretary. In the event that two or more crops grown on the same acreage are determined eligible for 2000 CDP and the exception of multiple-cropping is not applicable as determined by the Secretary, the producer must designate the one crop for which 2000 CDP will be requested. As previously mentioned, no such restriction was in place for the 1998 CLDAP.

In addition to implementing provisions of section 815 of the 2001 Act, which, as amended, provides the basic authority for the disaster program, this rule also addresses sections 804, 807 and 811 of the 2001 Act. The first of these, Section 804 of the 2001 Act, provides that CCC may provide compensation for losses not otherwise compensated to: (a) Compensate growers whose crops could not be sold due to Mexican fruit fly quarantines in San Diego and San Bernardino/Riverside counties in California since their imposition on November 16, 1999, and September 10, 1999, respectively; (b) compensate growers in relation to the Secretary's "Declaration of Extraordinary Emergency" on March 2, 2000, regarding plum pox virus; (c) compensate growers for losses due to Pierce's disease; (d) compensate growers for losses due to watermelon sudden wilt disease; and (e) compensate growers for losses incurred due to infestations of grasshoppers and Mormon crickets. Accordingly, section 1480.10(c) provides that the 2000 CDP will be available for these losses. Section 804 was needed because normally, and under section 815, CDP-

type programs are limited to weather-related losses. That being the case, it appears, however, that there was no intent to provide any relief for growers covered by section 804 that was different from or broader than that available for other producers with crop claims under section 815. There would, presumably, have been some expression of intent to do otherwise had that been Congress' desire. Accordingly, except as specified in section 804 itself, the claims in that are covered under the rule in connection with that section are only those for 2000-crop losses. The rules specify that loss calculations for the section 804 crops will be calculated in the same manner as for the majority of other losses covered in this rule and will be subject to the same limitations including per person limits and other restrictions. The rule allows the Deputy Administrator, generally, to set such additional limitations as may be appropriate in administering this relief and other relief addressed in the regulations.

Section 807 provides that in using some previously allotted funds, losses to nursery stock caused by Hurricane Irene on October 16 and 17, 1999, are to be considered 1999 crop losses (despite the normal rule that losses that late for nursery stock could be considered 2000-crop losses). Section 807 does not preclude compensation for these claims under section 815, which should allow for full recovery of the losses involved and thus not leave any losses remaining to be compensated for under previous authorities. Without more, it does not appear to be appropriate to assume that Congress meant for there to be double compensation on these claims; rather the provisions of section 807 seem to reflect the concern that those claims, which occurred in calendar year 1999 were not, because of the special rules that govern the determination of the program year for nursery stock, compensable under the 1999 program. Because of payment limitation consideration, it may be that whether these claims are paid under the 2000 program or the 1999 program could have some effect on the funds available to certain producers. Whether accordingly some changes should still be undertaken to the 1999 rules, or some action should be taken, is still under consideration. The rule allows the Deputy Administrator however to consider such claims and take action as the Deputy Administrator deems appropriate.

Section 807 also provides that for certain 1999 crops of citrus for which losses occurred in December 1998, certain California growers should be compensated at the level that would have applied had those claims been considered to be 1998 claims rather than 1999 claims. While payment formulas have generally remained unchanged, differing factors were applied in 1998 and 1999 for over-subscription of the programs. The reduction, by this factoring, was higher for the 1999 program than for the 1998 program. This part of section 807 strictly deals with past claims and since it deals with a limited number of producers and seems to involve a recalculation only, no new rules appear needed. Rather, these payments will be handled outside of these regulations.

Also, this rule, as indicated elsewhere, implements the provisions of section 811 of the 2001 Act, which provides for a special program for apple and potato losses. Those payments, by the terms of section 811, are not subject to the normal payment limitations and can be made without regard to whether the crop was harvested. The statute provided that there cannot be compensation for the same loss under more than one program other than the Crop Insurance Program.

This rule generally provides that apple and potato losses will be addressed separately to the extent of the available funding ($37,916,400). However, if a producer would receive less by that method than would have been received under the general section 815 program, the difference will be paid under the section 815 program. Since the additional payment would be limited to this difference, it would not be a duplication of payment for the same loss. This manner of operation will allow for a fair allotment of the special, payment limit-free funds, while insuring that the special program does not result in harming some producers. The rule provides, however, that the Deputy Administrator for Farm Programs may make adjustments between the two "programs" (both of which are covered in the same body of regulations) as needed to accomplish the goals of the program.

Another complication involves what can be referred to as a "special quality loss" provisions of section 815(d), as amended in later legislation, which provides special rules for the coverage of "quality losses" under the terms of the statute. While that subsection on its face indicates that such relief would be to the extent of the allowance for quality losses, the same statute also provides, generally, that the 2000 program shall be operated in the manner of the old 1998 program. The question is whether these new provisions exclude certain aspects of the old program in which quantity loss adjustments were made based on certain quality-related factors or where the general disaster loss was based on lost value, as in the case of the nursery stock. Such adjustments are necessary with respect to quantity as for some crops it would otherwise be impossible to get a fair reading of the actual quantitative effect of the disaster on the commodity. For example, part of the measured weight of the commodity on marketing can, if there is a problem with the crop, be excess water or debris. Given that the new statute appears generally expansive and given that there is no indication to the contrary, it has been determined that the instruction to operate the program as it was in the past includes the authority to include these adjustments of the old program, as well as including in the new program, the new quality payments provided in section 815(d). That is, the "special" quality adjustment of section 815(d) is perceived to be an add-on to the program rather than being a restriction that would disallow a producer from having a qualifying quantity adjusted to reflect, for example, that the delivered grade may have included foreign material or excess moisture so as to give a false impression of the actual amount of production.

However, the rule recognizes that there is some interplay between the quantity adjustments of the old program and the special quality provisions of the new statute and provide authority to the Deputy Administrator to insure that these existence of these two sets of allowances do not result in a double payment for the same problem. That is, the rules provide that the producer will be allowed to take the special quality payment only if the producer foregoes adjustments that may otherwise be made to the quantity determination on the basis of grade or lost value. The Deputy Administrator generally is given the authority in these rules to take whatever measures are needed to insure that there is not double compensation for the same loss.

Also, as indicated, the regulations contain special rules that allow certain nursery losses in the final quarter of calendar year 2000 to be treated, contrary to normal practice, to be treated as 2000-crop losses rather than 2001 crop losses. That provision is compelled by the new legislation that provides, too, that those claims will have a separate payment limit—and will not count against the limit that producers may have for 2000-crop claims that would otherwise arise applying the normal rules of crop definition.

Another issue in this rule concerns whether receipt of payments under this rule will or will not preclude recovery or retention of monies that could otherwise be paid to the producer under the Noninsured Crop Assistance Program (NAP) operated under 7 CFR part 1437. In the 1998 program statute, there was a list of programs set out for which the payment eligibility would be in addition to that which was provided as disaster relief under that statute. One of the listed programs was NAP and another was the Federal Crop Insurance Program. A second and separate provision was contained in the 1998 Act that also specified that there should not be discrimination, in making payments, against persons who had acquired federal crop insurance. While the new Act has the second provision, it does not have the first. Generally, this assistance (the annual disaster programs) have been seen as not seeking to replace NAP. Further, it appears that there would be no NAP claims of substance for the 2000 crop if a NAP claim would preclude a producer from the more generous relief of the 2000 Act. Taking those and other factors into consideration, it has been determined that the payments under the new program will be in addition to whatever monies producers can claim under NAP. NAP does require some effort on the part of producers and generally recent disaster bills have seemed to take care to avoid any result that would discourage producers from obtaining insurance. Also, it is not easy to assume that Congress effectively would close down the NAP program, for a year, without saying so and, instead, Congress has generally instructed the agency to operate the new 2000 disaster program in the same manner as the 1998 program. The situation with NAP is different from the tree question addressed elsewhere in that the only provision that addressed trees in the 1998 statute was itself repeated in the new Act but with the reference to trees conspicuously left out. As for NAP, the provision that covered NAP and other payments was not repeated.

The same loss thresholds as in previous disaster programs are applicable to insured, uninsured and non-insurable 2000 crops. As a condition of receiving 2000 CDP assistance, applicants will be required to purchase crop insurance coverage, if available, for 2001 and 2002 crop years for the crops not insured for 2000 and for which 2000 CDP benefits are requested. Producers who fail to purchase the crop insurance as they agreed will be required to refund all or a portion of the disaster assistance provided under this part.

Producers who seek benefits under this part must file an application for benefits during the sign-up period that began on January 18, 2001, and will end on or about May 4, 2001, or such other date that may be announced by the Deputy Administrator. The sign-up period for special quality loss and apple and potato loss programs will be conducted at a later date to be announced by the Deputy Administrator. False certification carries strict penalties and the Department will spot-check and validate applications.

Like the earlier programs, both gross revenue and per-person payment limitations apply, unless specifically stated otherwise. A person, as defined under part 1400 of this chapter, may not receive more than $80,000 under this part. A person, as defined under part 1400 of this chapter, is not eligible for benefits if their gross revenue is in excess of $2.5 million for the tax year preceding the year for which disaster program benefits are requested. The 1997 Census of Agriculture indicates that less than 2.4 percent of the farms in the U.S. have sales greater than $500,000. Farms with gross incomes of $2.5 million or more only represent a small fraction of one percent. The gross revenue limitation thus only limits eligibility of the Nation's largest farm and ranch operations.

Cost-Benefit Analysis Summary

General

Payments for insured and noninsured crops will be made at 65 percent of price, and uninsured crops will be made at 60 percent of price. Payments for insured crops will be made at the slightly higher rate to provide an incentive to purchase crop insurance. Payments for noninsured crops will be made at the higher rate because insurance is not available for these crops.

Claims for losses under the 1998 crop loss disaster assistance program and the 1999 crop disaster program were about $2.3 billion and $1.7 billion, respectively, before pro-ration. Based on similar weather conditions, crop losses under the 2000 program are expected to be about $2 billion.

The $80,000 payment limitation and the limitation of $2.5 million gross income will put more payments in the hands of the Nation's smaller farms. The 1997 Census of Agriculture indicates that less than 2.4 percent of the farms in the U.S. have sales greater than $500,000. Farms with gross incomes of $2.5 million or more only represent a small fraction of one percent. However, because of their large size these farms would account for a disproportionate share of crop loss payments if there were no income limitation.

Apple and Potato Quality-Losses

Oversupply created most of the financial challenge currently confronting apple and potato growers. Quality problems also contributed to the financial stress, especially for Eastern growers. This program will offer relief for some, totaling almost $38 million, but will not address the principal problem, slumping prices caused by bounteous harvests. The 2001 Act also provided $100 million in "market loss" payments for apple growers, allowing some producers to combine payments from the two programs. In addition, government purchases of apples for food assistance programs may bolster apple prices. Potato growers are voluntarily attempting to take a billion pounds of their crop off the market to help alleviate the dampening effect of the record 2000 potato crop on potato prices.

For more information on the Cost-Benefit Analysis, contact Brad Karmen, (202) 720–4635.

List of Subjects in 7 CFR Part 1480

Agricultural commodities, Disaster assistance, Emergency assistance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Chapter XIV is amended by adding part 1480 to subchapter B to read as follows:

PART 1480—2000 CROP DISASTER PROGRAM

Sec.

Authority: Sec. 804, 807, 811 (apple and potato quality loss only) and 815, Pub. L. 106–387, 114 Stat. 1549, as amended; 15 U.S.C. 714 *et seq.*

§ 1480.1 Applicability.

This part announces the 2000-Crop Disaster Program (2000 CDP) and sets forth the terms and conditions applicable to the program. Under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2001 ("2001 Act") (Public Law 106–387, 114 Stat. 1549), the Secretary of Agriculture will use the funds, facilities and authorities of the Commodity Credit Corporation to make disaster payments available to producers who have incurred losses in quantity or quality of their crops due to disasters. Producers will be able to receive benefits under this part for losses to eligible 2000 crops as determined by the Secretary under that section and under related provisions of the 2001 Act.

§ 1480.2 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation (CCC), and shall be carried out in the field by Farm Service Agency (FSA) State and county committees.

(b) FSA State and county committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The FSA State committee shall take any action required by this part that has not been taken by an FSA county committee. The FSA State committee shall also:

(1) Correct or require an FSA county committee to correct any action taken by such FSA county committee that is not in accordance with this part; and

(2) Require an FSA county committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to an FSA State or county committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator may authorize the State and county committees to waive or modify non-statutory deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

§ 1480.3 Definitions.

The definitions and program parameters set out in this section shall be applicable for all purposes of administering the 2000-Crop Disaster Program provided for in this part. The terms defined in part 718 of this title and 1400 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section. The definitions follow:

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested as determined by the FSA State or county committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means with respect to insurance plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Administrative fee means an amount the producer must pay for catastrophic risk protection, limited, and additional coverage crop insurance policies for each crop and crop year.

Appraised production means production determined by FSA, or a company reinsured by FCIC, that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under the Noninsured Crop Disaster Assistance program, the approved yield is established according to part 1437 of this chapter. Only the approved yields based on production evidence submitted to FSA prior to the 2000 Act will be used for purposes of the 2000 CDP. Other yields may be assigned when an eligible approved yield is not available.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means any aquacultural species as defined in part 1437 of this chapter.

Average market price means the price or dollar equivalent on an appropriate basis for an eligible crop established by CCC for determining payment amounts. Such price will be based on the harvest basis without the inclusion of transportation, storage, processing, packing, marketing, or other post-harvesting expenses and will be based on historical data.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

Catastrophic Risk Protection Endorsement means the relevant part of the Federal crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

CCC means the Commodity Credit Corporation.

Control county means: for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; for a producer with farming interests that are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the FSA county committee.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for noninsurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey losses shall be the period running from January 1 through the following December 31.

Disaster means damaging weather, including drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon, excessive wind, excessive heat, weather-related saltwater intrusion, weather-related irrigation water rationing, and earthquake and volcano eruptions, or any combination thereof. Disaster includes a related condition that occurs as a result of the damaging weather and exacerbates the

condition of the crop, such as disease and insect infestation.

Eligible crop means a crop insured by FCIC as defined in part 400 of this title, or included under the non-insured crop disaster assistance program (NAP) as defined under part 1437 of this chapter. Losses of livestock and livestock related losses are not compensable under this part but may, depending on the circumstances, be compensable under part 1439 of this chapter.

End use means the purpose for which the harvested crop is used, such as grain, hay or seed.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting. packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For noninsurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means:

(1) For aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and

(2) For nursery crops, media designed to prevent "root rot" and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced.

Harvested means: For insured and uninsured crops, "harvested" as defined according to the applicable crop insurance policy; for noninsurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock; for noninsurable crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field during the crop year; and for mechanically harvested noninsurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan or Adjusted Gross Revenue Plan of crop insurance was the only plan of insurance available for the crop in the county in the applicable crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Maximum loss level means the maximum level of crop loss to be applied to a producer without acceptable production records. Loss levels are expressed in either a percent of loss or yield per acre, and should reflect the amount of production that a producer should have made considering the eligible disaster conditions in the area or county, as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

Multiple-cropping means the planting of two or more different crops on the same acreage for harvest within the same crop year.

NASS means the National Agricultural Statistics Service.

Noninsurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of dead aquacultural species that would normally occur during the crop year.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house or consignment business that is subsequently paid to the sellers or consignors, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seedbed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Production means quantity of the crop or commodity produced expressed in a specific unit of measure such as bushels, pounds, etc.

Rate means price per unit of the crop or commodity.

Related condition means with respect to disaster, a condition that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated as a result of damaging weather as

determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

Secretary means the Secretary of the United States Department of Agriculture.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title that, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For all noninsurable crops, if available, the established unit of measure used for the 1998 or 1999 Noninsured Crop Assistance Program price and yield;

(3) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and to the extent the Deputy Administrator determines it to be feasible and appropriate Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the former Trust Territory of the Pacific Islands, which include Palau, Federated States of Micronesia and the Marshall Islands.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

Yield means unit of production, measured in bushels, pounds, etc., per area of consideration, usually measured in acres.

§ 1480.4 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered 2000-crop losses of eligible crops as a result of a disaster or related condition, or as further specified in this part.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 2000 crop year and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other provision of law.

§ 1480.5 Time for filing application.

Applications for benefits under the 2000-Crop Disaster Program must be filed before the close of business on May 4, 2001, or such other date that may be announced by the Deputy Administrator, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

§ 1480.6 Limitations on payments and other benefits.

(a) A producer may receive disaster benefits on 2000 crop and other crop losses as specified under this part.

(b) Payments will not be made under this part for grazing losses.

(c) The Deputy Administrator may divide and classify crops based on loss susceptibility, yield, and other factors.

(d) No person shall receive more than a total of $80,000 in disaster benefits under this part, unless otherwise specified.

(e) No person shall receive disaster benefits under this part in an amount that exceeds the value of the expected production for the relevant period as determined by CCC.

(f) A person who has a gross revenue in excess of $2.5 million for the preceding tax year shall not be eligible to receive disaster benefits under this part. Gross revenue includes the total income and total gross receipts of the person, before any reductions. Gross revenue shall not be adjusted, amended, discounted, netted or modified for any reason. No deductions for costs, expenses, or pass through funds will be deducted from any calculation of gross revenue. For purposes of making this determination, gross revenue means the total gross receipts received from farming, ranching and forestry operations if the person receives more than 50 percent of such person's gross income from farming or ranching; or the total gross receipts received from all sources if the person receives 50 percent or less of such person's gross receipts from farming, ranching and forestry.

§ 1480.7 Requirement to purchase crop insurance.

(a) Except as provided further in this section, any producer who elected not to purchase crop insurance on an insurable 2000 crop for which the producer receives crop loss assistance under this part must purchase crop insurance on that crop for the 2001 and 2002 crop years.

(b) If, at the time the producer applies for the 2000 CDP the sales closing date for 2001 insurable crops for which the producer sought benefits under the 2000 CDP has passed, the producer must purchase crop insurance for the 2002 crop, but is excused from purchasing insurance for those 2001 crops.

(c) If any producer fails to purchase crop insurance as required in

paragraphs (a) or (b) of this section, the producer will be required to refund all 2000 CDP benefits received, or such lesser amount as determined appropriate to the circumstances by the Deputy Administrator.

§ 1480.8 Miscellaneous provisions.

(a) Disaster benefits under this part are not subject to administrative offset provided for in section 842 of the 2001 Act (Public Law 106–387, 114 Stat. 1549).

(b) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(c) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(d) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recalculated and any excess refunded with applicable interest.

(e) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(f) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth at parts 11 and 780 of this title.

(g) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

(h) For the purposes of 28 U.S.C. 3201(e), the Secretary hereby waives the restriction on receipt of funds or benefits under this program but only as to beneficiaries who as a condition of such waiver agree to apply the 2000 CDP benefits to reduce the amount of the judgment lien.

(i) The 2000 CDP is carried out using the funds, facilities and authorities of the CCC. As with all CCC programs, all authorities applicable to CCC and its activities apply to this program including, but not limited to the following: assessment of interest for refunds due CCC; late payment interest under part 1403 of this chapter; and withholding authorities. Additionally, producers may utilize other CCC authorities including but not limited to: assignments; and power of attorney forms.

§ 1480.9 Matters of general applicability.

(a) For calculations of loss made with respect to insured crops, the producer's existing unit structure will be used as the basis for the calculation and may include optional units established in accordance with part 457 of this title. Insured crops may have basic units established if the existing unit structure is based on enterprise units or whole county units. For uninsured and noninsurable crops, basic units will be established for these purposes.

(b) Loss payment rates and factors shall be established by the state committee based on procedures provided by the Deputy Administrator.

(c) County average yield for loss calculations will be the simple average of the 1993 through 1997 official county yields established by FSA.

(d) County committees will assign production when the county committee determines:

(1) An acceptable appraisal or record of harvested production does not exist;

(2) The loss is due to an ineligible cause of loss or practices that cause lower yields than those upon which the historic yield is based;

(3) The producer has a contract providing a guaranteed payment for all or a portion of the crop; or

(4) The crop is planted beyond the normal planting period for the crop.

(e) The county committee shall establish a maximum loss level that should reflect the amount of production producers should have considering the eligible disaster conditions in the area or county for the same crop. The maximum loss level for the county shall be expressed as either a percent of loss or yield per acre. The maximum loss level will apply when:

(1) Unharvested acreage has not been appraised by FSA, or a company reinsured by FCIC; or

(2) Acceptable production records for harvested acres are not available from any source.

(f) Assigned production for practices that result in lower yields than those for which the historic yield is based shall be established based on the acres found to have been subjected to those practices.

(g) Assigned production for crops planted beyond the normal planting period for the crop shall be calculated according to the lateness of planting the crop. With the exception of replanted crops, if the crop is planted after the final planting date by:

(1) 1 through 10 calendar days, the assigned production reduction will be based on one percent of the payment yield for each day involved;

(2) 11 through 24 calendar days, the assigned production reduction will be based on 10 percent of the payment yield plus an additional two percent reduction of the payment yield for each days of days 11 through 24 that are involved; and

(3) 25 or more calendar days or a date from which the crop would not reasonably be expected to mature by harvest, the assigned production reduction will be based on 50 percent of the payment yield or such greater amount determined by the county committee to be appropriate.

(h) Assigned production for producers with contracts to receive a guaranteed payment for production of an eligible crop will be established by the county committee by:

(1) Determining the total amount of guaranteed payment for the unit;

(2) Converting the guaranteed payment to guaranteed production by dividing the total amount of guaranteed payment by the approved county price for the crop or variety or such other factor deemed appropriate if otherwise the production would appear to be too high; and

(3) Establishing the production for the unit as the greater of the actual net production for the unit or the guaranteed payment, or combination thereof if greater.

§ 1480.10 Eligible disaster conditions.

(a) Except as provided in paragraph (c) of this section, this part applies to losses where the crop could not be planted or crop production, both in quantity and quality, was adversely affected by:

(1) Damaging weather including drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon, excessive wind, excessive heat or a combination thereof;

(2) Damage from earthquake and volcano eruptions;

(3) Insect infestation as a related condition to damaging weather;

(4) Disease as a related condition to damaging weather;

(5) Salt water intrusion of an irrigation supply;

(6) Irrigation water rationing if proof is provided that water was rationed by a Government entity or water district;

(7) Lack of water supply due to drought conditions for irrigated crops; or

(8) Other causes or factors as determined by the Deputy Administrator.

(b) Disaster benefits will not be available under this part if the crop could not be planted or crop production, both in quantity and quality, was adversely affected by:

(1) Poor farming practices;

(2) Poor management decisions; or

(3) Drifting herbicides.

(c) To the extent not otherwise compensated by USDA, 2000 CDP benefits will be made available under this part to also compensate:

(1) Growers whose crops could not be sold due to Mexican fruit fly quarantines in San Diego and San Bernardino/Riverside counties in California since their imposition on November 16, 1999, and September 10, 1999, respectively;

(2) Growers in relation to the Secretary's "Declaration of Extraordinary Emergency" on March 2, 2000, regarding the plum pox virus;

(3) Growers for 2000-crop losses due to Pierce's disease;

(4) Growers for 2000-crop losses due to watermelon sudden wilt disease; and

(5) Growers for 2000-crop losses incurred due to infestations of grasshoppers and Mormon crickets.

(d) Losses for which compensation may be provided under paragraph (c) of this section will be compensated in the same manner, and subject to the same limitations as other general claims for crop losses under the 2000 CDP and shall be limited in scope to those claims that, as determined by the Deputy Administrator, are allowable under the provisions of paragraph (c) of this section and are consistent with the terms of the authorizing legislation. In handling such claims, and others, the Deputy Administrator may consult with other branches of the Department to determine the extent of losses and the effect of prior governmental action on marketing decisions made by the growers.

§ 1480.11 Qualifying 2000-crop losses.

(a) To receive disaster benefits under this part, the county committee must determine that because of a disaster, the producer with respect to the 2000 crop year:

(1) Was prevented from planting a crop;

(2) Sustained a loss in excess of 35 percent of the expected production of a crop; or

(3) Sustained a loss in excess of 35 percent of the value for value loss crops.

(b) Calculation of benefits under this part shall not include losses:

(1) That are the result of poor management decisions or poor farming practices as determined by the county committee on a case-by-case basis;

(2) That are the result of the failure of the producer to reseed or replant to the same crop in the county where it is customary to reseed or replant after a loss;

(3) That are not as a result of a natural disaster, unless otherwise specified in § 1480.10;

(4) To crops not intended for harvest in crop year 2000;

(5) To losses of by-products resulting from processing or harvesting a crop, such as cotton seed, peanut shells, wheat or oat straw;

(6) To home gardens;

(7) That are a result of water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected for the containment or release of the water; or

(8) If losses could be attributed to conditions occurring outside of the applicable crop year growing season.

(c) Calculation of benefits under this part for ornamental nursery stock shall not include losses:

(1) Caused by a failure of power supply or brownouts;

(2) Caused by the inability to market nursery stock as a result of quarantine, boycott, or refusal of a buyer to accept production;

(3) Caused by fire;

(4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock that have not been controlled; or

(5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this part for honey where the honey production by colonies or bees was diminished, shall not include losses:

(1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;

(2) Resulting from improper storage of honey;

(3) To honey production because of bee feeding;

(4) Caused by the application of chemicals;

(5) Caused by theft, fire, or vandalism;

(6) Caused by the movement of bees by the producer or any other person;

(7) Due to disease or pest infestation of the colonies; or

(8) Loss calculations shall take into account other conditions and adjustments provided for in this part.

§ 1480.12 Rates and yields; calculating payments.

(a) Payment rates for 2000 year crop losses shall be:

(1) 65 percent of the maximum established RMA price for insured crops;

(2) 65 percent of the State average price for noninsurable crops; and

(3) 60 percent of the maximum established RMA price for uninsured crops.

(b) Except as provided elsewhere in this part, disaster benefits under this part for losses to crops shall be made in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(c) Separate payment rates and yields for the same crop may be established by the county committee as authorized by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown. Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

(d) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced.

(e) When calculating a payment for a unit loss:

(1) an unharvested payment factor shall be applied to crop acreage planted but not harvested;

(2) a prevented planting factor shall be applied to any prevented planted acreage eligible for payment; and

(3) unharvested payment factors may be adjusted if costs normally associated with growing the crop are not incurred.

(f) All payments made under this part shall conform to the requirements and limitations of this part and the Deputy Administrator may provide additional conditions or requirements as needed or appropriate to other wise serve the goals of the program. Nothing in this section shall prevent the Deputy Administrator from allowing a payment despite the

receipt of the producer of a crop insurance payment, or a payment under the Noninsured Crop Disaster Assistance Program operated under part 1437 of this chapter, as determined to be appropriate.

§ 1480.13 Production losses, producer responsibility.

(a) Where available and determined accurate, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, or if the FSA county committee determines the RMA loss records are inaccurate or incomplete, or if the FSA county committee makes inquiry, producers are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production;

(4) Providing the information in a manner that can be easily understood by the county committee; and (5) Providing supporting documentation if the county committee has reason to question the disaster event or that all production has been accounted for.

(c) In determining production under this section the producer must supply verifiable or reliable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, production records for these purposes include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment. The failure to report the existence of any guaranteed contract or similar arrangement or agreement shall be considered as providing false information to CCC and will render producers ineligible for 2000 CDP benefits, and may lead to other civil or criminal sanctions.

§ 1480.14 Determination of production.

(a) Production under this part shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested as the intended use, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by CCC.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use with:

(1) The intended use or uses for disaster purposes based on historical production and acreage evidence provided by the producer; and

(2) The eligible acres for each use and the calculation of the disaster payment will be determined by the county committee according to instructions issued by the Deputy Administrator.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 60 percent of the salvage value received will be deducted from the disaster payment.

(g) If a producer has an arrangement, agreement, or contract for guaranteed payment for production (as opposed to production based on delivery), the production shall be the greater of the actual production or the guaranteed payment converted to production as determined by CCC.

(h) Production that is commingled between units before it was a matter or combination of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective unit by CCC. Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that:

(1) The producer has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this part, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The producer carries out a practice, such as multiple cropping, that generally results in lower yields than the established historic yields;

(4) The producer has a contract to receive a guaranteed payment for all or a portion of the crop;

(5) A crop is late-planted;

(6) Unharvested acreage was not timely appraised; or

(7) Other appropriate causes exist for such assignment as determined by the Deputy Administrator.

(j) For sugarcane, the quantity of sugar produced from such crop shall exclude acreage harvested for seed.

(k) For peanuts, the actual production shall be all peanuts harvested for nuts regardless of their disposition or use as adjusted for low quality.

(l) For tobacco, except flue-cured and burley, the actual production shall be the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal. For flue-cured and burley tobacco, the actual production shall be the sum of the tobacco: marketed, regardless of whether the tobacco was produced in the current crop year or a prior crop year; on hand; destroyed after harvest; and produced but unharvested, as determined by an appraisal.

§ 1480.15 Calculation of acreage for crop losses other than prevented planted.

(a) Acreage shall be calculated using the number of acres shown to have been planted to a crop.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops for 2000 CDP if the county committee determines that all of the following conditions are met:

(1) Both the initial and subsequent planted crops were planted with an intent to harvest;

(2) Both the initial and subsequent planted crops were planted within the normal planting period for that crop:

(3) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(4) Each planting could reach maturity if each planting was harvested or would have been harvested.

(c) In cases where there is multiple cropped acreage, each crop may be eligible for disaster assistance separately if both of the following conditions are met:

(1) the specific crops are approved by the FSA State Committee as eligible multiple-cropping practices according to procedures approved by the Deputy Administrator; and

(2) the farm containing the multiple cropped acreage has a history of multiple cropping based on timely filed crop acreage reports.

(d) Producers with multiple cropped acreage not meeting the criteria in paragraph (c) of this section may be eligible for disaster assistance on more than one crop if the producer has verifiable records establishing a history of carrying out a successful multiple cropping practice on the specific crops for which assistance is requested. All required records acceptable to CCC as determined by the Deputy Administrator must be provided before payments are issued.

(e) Producers with multiple cropped acreage not meeting the criteria in paragraph (c) or (d) of this section must select the crop for which assistance will be requested. If more than one producer has an interest in the multiple cropped acreage, all producers must agree to the crop designated for payment by the end of the application period or no payment will be approved for any crop on the multiple cropped acreage.

(f) Benefits under this part shall apply to irrigated crops where the acreage was affected by a lack of water or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

§ 1480.16 Calculation of prevented planted acreage.

(a) When determining losses under this part, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this part for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this part for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: peppers; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) The producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that both:

(1) Prevented most producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Unless otherwise approved by the Deputy Administrator, began no earlier than the planting season for that crop.

(e) Prevented planted disaster benefits under this part shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; honey; maple sap; millet; mint; nursery crops; cultivated wild rice; fresh market beans; cabbage, pumpkins, sweet potatoes; winter squash; tobacco, turfgrass sod and vine crops;

(2) Uninsured crop acreage that is unclassified for insurance purposes;

(3) Acreage that is used for conservation purposes or intended to be left unplanted under any USDA program;

(4) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(5) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(6) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(7) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements;

(8) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of at least producing a normal yield; and

(9) Any other acreage for which, for whatever reason, there is cause to question whether the crop could have been planted for a successful and timely harvest, or for which prevented planting credit is not allowed under the provisions of this part.

(f) Prevented planting payments are not provided on acreage that had either a previous or subsequent crop planted on the acreage, unless the county committee determines that all of the following conditions are met:

(1) There is an established practice of planting two or more crops for harvest on the same acreage in the same crop year;

(2) Both crops could have reached maturity if each planting was harvested or would have been harvested;

(3) Both the initial and subsequent planted crops were planted or prevented-planting within the normal planting period for that crop;

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(5) The specific crops meet the eligibility criteria for a separate crop designation as a repeat or approved multiple cropping practice set out in § 1480.15.

(g) Disaster benefits under this part shall not apply to crops where the prevented-planted acreage was affected by a disaster that was caused by drought unless on the final planting date or the late planting period for non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity because of a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including but not limited to the local weather reporting stations of the National Weather Service.

(h) Prevented planting benefits under this part shall apply to irrigated crops where the acreage was prevented from being planted due to a lack of water resulting from drought conditions or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

(i) For uninsured or noninsurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops cannot exceed the number of acres of cropland in the unit

for the crop year and will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or that was prevented from being planted, to the crop in any 1 of the 1996 through 1999 crop years as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

(j) Notwithstanding the provisions of part 718 of this chapter, late-filed crop acreage reports for previous years shall not be accepted for CDP purposes.

§ 1480.17 Quantity adjustments for diminished quality for certain crops.

(a) For the crops identified in paragraph (b) of this section, subject to the provisions of this section and part, the quantity of production of crops of the producer shall be adjusted to reflect diminished quality resulting from the disaster.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; crambe, flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sugar beets; sunflower-oil; sunflower-seed; tobacco; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data determined acceptable.

(c) The producer must submit documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied after production has been adjusted to standard moisture, when applicable.

(e) For all crops listed in paragraph (b)(1) of this section, except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops, other than cotton, peanuts, sugar beets and tobacco, listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the Federal marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that receive a grade of "sample" and are marketed through normal channels, production will be adjusted as determined by CCC. County committees may, with state committee concurrence, establish county average quality adjustment factors.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 5-year county average historical quality premium or discount, as determined by CCC.

(h) For quota and non-quota peanuts, quality adjustments shall be based on the difference between the actual sales price, or other proceeds, received and the National average support price by type of peanut for the applicable crop year.

(i) Quality adjustments for sugar beets shall be based on sugar content. The 2000 actual production for the producer shall be adjusted upward or downward to account for sugar content as determined by CCC.

(j) Quality adjustments for tobacco shall be based on the difference between the revenue received and the support price except that the market price may be used instead of the support price where market prices for the tobacco are normally in excess of the support price.

(k) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for the 2000 crop year. These quality adjustments are built into the production loss determination. Production determinations from Federal crop insurance will not be used.

(l) Except as determined by the Deputy Administrator, quality adjustments for aflatoxin shall be based on the aflatoxin level. The producer must provide the county committee with proof of a price reduction because of aflatoxin. The aflatoxin level must be 20 parts per billion or more before a quality adjustment will be made. The quality adjustment factor applied to affected production is .50 if the production is marketable. If the production is unmarketable due to aflatoxin levels of at least 20 parts per billion, production will be adjusted to zero. Any value received will be considered salvage.

(m) Any quantity of the crop determined to be salvage will not be considered production. Salvage values shall be factored by 0.60 times the producer's share. This amount will be deducted from the disaster payment.

(n) Quantity adjustments for diminished quality under this section will not be applied to crops that are, under § 1480.18, value loss crops.

(o) Quantity adjustments for diminished quality shall also not apply under this section to: hay, honey, maple sap, turfgrass sod, crops marketed for a use other than an intended use for which there is not an established county price or yield, or any other crop that the Deputy Administrator deems it appropriate to exclude.

§ 1480.18 Value loss crops.

(a) Irrespective of any inconsistent provisions in other sections, the provisions of this section shall be applied to the following crops, which will be considered "value loss crops": ornamental nursery; Christmas trees; vegetable and root stock including ginseng root; aquaculture, including ornamental fish, and such other crops as may be determined appropriate for treatment as "value loss crops."

(b) For crops specified in paragraph (a) of this section, disaster benefits under this part are calculated based on the loss of value at the time of disaster, as determined by CCC.

(c) For aquaculture, disaster benefits under this part for aquacultural species are limited to those aquacultural species that were placed in the aquacultural facility by the producer. Disaster benefits under this part shall not be made available for aquacultural species that are growing naturally in the aquaculture facility. Disaster benefits under this part are limited to aquacultural species that were planted or seeded on property owned or leased by the producer where that land has readily identifiable boundaries, and over which the producer has total control of the waterbed and the ground under the waterbed. Producers who only have control of the waterbed or the ground under the waterbed but not both will not be eligible for disaster benefits under this part.

(d) For ornamental nursery crops, disaster benefits under this part are limited to ornamental nursery crops that were grown in a container or controlled

environment for commercial sale on property owned or leased by the producer, and cared for and managed using good nursery growing practices. Indigenous crops are not eligible for benefits under this part.

(e) For vegetable and root stock, disaster benefits under this part are limited to plants grown in a container or controlled environment for use as transplants or root stock by the producer for commercial sale or property owned or leased by the producer and managed using good rootstock or fruit and vegetable plant growing practices.

(f) For ginseng, only ginseng that meets all the requirements of cultivated ginseng shall be considered as eligible for benefits under this part. Ginseng is defined as cultivated ginseng roots and seeds that meet the following requirements:

(1) grown in raised beds above and away from wet and low areas protected from flood;

(2) grown under man-made canopies that provide 75 to 80 percent shade coverage;

(3) grown in well drained media with a pH adjustment of at least 5.5 and which protects plants from disease; and

(4) grown with sufficient fertility and weed control to obtain expected production results of ginseng root and seed.

(g) Evidence of the above ginseng practice requirements must be provided by the producer if requested by the county committee. Any ginseng that is grown under cultivated practices or simulated wild or woodland conditions that do not meet these requirements are not eligible for disaster assistance under this part.

(h) Because ginseng is a perennial crop, the producer must provide annual crop history to establish when the loss occurred and the extent of such loss. If the producer does not or is unable to provide annual records to establish the beginning inventory, before the loss, and ending inventory, after the loss, production shall be assigned by the county committee.

(i) Aside from differences provided for in this section, all other conditions for eligibility contained in this part shall be applied to value loss crops.

§ 1480.19 Other special provisions for specialty crops.

(a) For turfgrass sod, disaster benefits under this part are limited to turfgrass sod that would have matured and been harvested during 2000, when a disaster caused in excess of 35 percent of the expected production to die.

(b) For honey, disaster benefits under this part are limited to table and non-table honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(c) For maple sap, disaster benefits under this part are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

§ 1480.20 Florida nursery crop losses.

Notwithstanding any other provision of this part, 2000 CDP benefits shall be made available for losses due to disasters afflicting nursery crops in the State of Florida that occur, because of disaster during the period beginning on October 1, 2000, and ending on December 31, 2000. Calculations of the amount of such losses shall be made independently of other losses of the producer, and such losses shall be subject to a separate limit on payment amounts as may otherwise apply. Any payment under this section for such losses shall for all purposes, present and future, be considered to be a 2000-crop payment, and such compensated losses shall be ineligible for any assistance that may become available for 2001 crop losses.

§ 1480.21 [Reserved]

§ 1480.22 Quality losses for 1999 and 2000 apples and potatoes.

(a) Notwithstanding any other provisions of this part, $37,916,400 of CCC funds shall be made available until expended to producers of 1999 and 2000-crop apples and potatoes for quality losses due to fireblight or weather related disasters, including but not limited to hurricane or hail damage.

(b) Applications for benefits under this section must be filed before the close of business on May 4, 2001, or such other date that may be announced by the Deputy Administrator, in the county FSA office serving the county where the producer's operation is located for administrative purposes.

(c) Payments issued under this section will be made regardless of whether the crop was harvested and without regard to:

(1) A per person limitation on payment amount; however, a national payment factor may be applicable to all payments under this section if requests for benefits exceed the $37,916,400;

(2) Restriction for the person's gross revenue; or

(3) Qualifying loss threshold.

(d) All or part of the benefits under this section shall not be issued if the producer received compensation for the same quality loss under any other Federal program, other than the Federal Crop Insurance Program.

(e) Unless determined by the Deputy Administrator, all 2000-crop potato and apple claims will be addressed first under this section and if, after the handling of those claims under this section, it appears that for an individual producer that the producer would have received a greater compensation had the claim been treated in the same manner as other crops under the general program provided for in this part, then the difference shall be paid using that additional authority.

§ 1480.23 Quality losses for 2000 crops.

(a) Subject to other provisions of this part, CCC funds shall be made available for assistance to producers determined eligible under this section for crop quality losses greater than 20 percent of the value that the affected production of the crop would have had if the crop had not suffered a quality loss. The per unit amount of a quality loss for a producer's crop shall be equal to the difference between:

(1) the unit market value of the units of the crop affected by the quality loss had the crop not suffered a quality loss; and

(2) the per unit market value of the units of the crop affected by the quality loss.

(b) The amount of payment for a quality loss shall be equal to 65 percent of the quantity of the crop affected by the quality loss, multiplied by 65 percent of the per unit quality loss for the crop as determined by the Deputy Administrator.

(c) This section will apply to all crops eligible for 2000-crop disaster assistance under this part including, but not limited to, forage crops and pecans, and will apply to crop production that has a reduced economic value due to the reduction in quality.

(d) Except as provided in § 1480.22(e), or as determined by the Deputy Administrator, producers may not be compensated under this section to the extent that such producers have received a payment under § 1480.22 or received an adjustment on payment attributable in whole or in part to diminished quality under §§ 1480.17, 1480.18, 1480.19, or other provisions of this part.

Dated: March 15, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

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H.J. Res. 19/P.L. 107–4
Providing for the appointment of Walter E. Massey as a citizen regent of the Board of Regents of the Smithsonian Institution. (Mar. 16, 2001; 115 Stat. 6)

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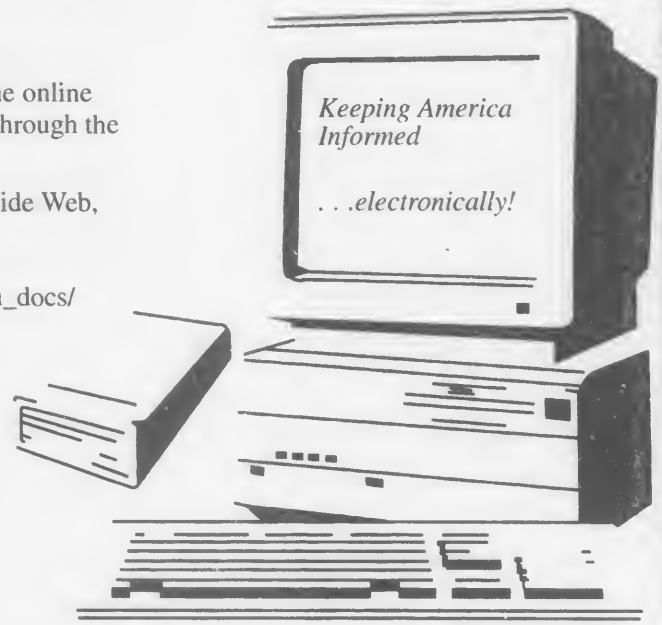

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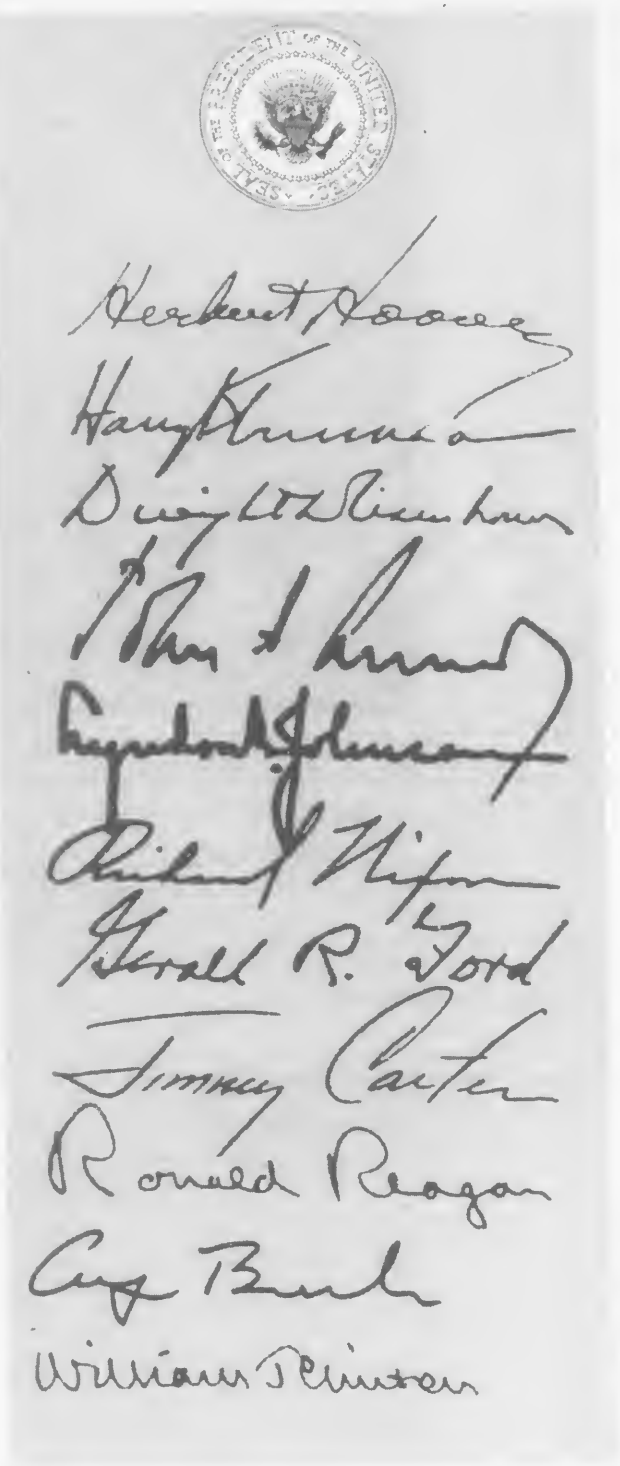

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